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UNITED NATIONS STANDARDS AND NORMS IN THE FIELD OF CRIME PREVENTION AND CRIMINAL JUSTICE

Report of the Secretary General

Summary

The present report provides an overview of the recent development of activities of the United Nations crime prevention and criminal justice programme in the area of the promotion of the use and application of existing United Nations standards and norms, pursuant to Economic and Social Council resolution 1994/18 of 25 July 1994. It focuses on ways and means of facilitating their use and dissemination, while improving cooperation and coordination of activities with other entities and institutions active in this area.

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INTRODUCTION

1. The General Assembly, in its resolution 46/152 of 18 December 1991 on the creation of an effective United Nations crime prevention and criminal justice programme, defined the general goals of the programme, which include: the strengthening of regional and international cooperation in crime prevention, criminal justice and the combating of transnational crime; more efficient and effective administration of justice, with due respect for human rights of all those affected by crime and all those involved in the criminal justice system; and the promotion of the highest standards of fairness, humanity, justice and professional conduct.

2. United Nations standards, norms, guidelines and model treaties in crime prevention and criminal justice represent internationally agreed-upon principles of desirable practice on the basis of which Governments could assess their own systems and contribute to the further development of the concept of international rule of law. Those principles cover such matters as the treatment of prisoners, the conduct of law enforcement officials, the use of force and firearms by the police, the rights of victims of crime, the independence of the judiciary and the administration of juvenile justice. The principles can also provide a basis for domestic legislation and for bilateral and multilateral cooperation to combat national and transnational forms of crime.

3. While international instruments such as declarations, principles, guidelines, standard rules and recommendations have no legally binding effect, they have an undeniable moral strength and can provide practical guidance. Therefore, one of the aims of the United Nations in reviewing progress in the use and application of standards and norms in the field of crime prevention and criminal justice is to assist States in overcoming obstacles that might exist in implementing some standards.

4. On the recommendation of the Commission on Crime Prevention and Criminal Justice at its third session, the Economic and Social Council adopted its resolution 1994/18 of 25 July 1994 on United Nations standards and norms in crime prevention and criminal justice. In that resolution, the Council reaffirmed the important contribution that the use and application of United Nations standards and norms in crime prevention and criminal justice make to criminal justice systems, and stressed the need for further coordination and concerted action in translating into practice United Nations standards and norms in that area. The Council also endorsed the draft questionnaires prepared by the Secretariat on the four instruments selected by the Commission at its second session. Furthermore, the Council requested the Commission on Crime Prevention and Criminal Justice to continue to give special attention to their use and application, and also to continue its consideration of the question at its fourth session by having the open-ended in-sessional working group discuss, *inter alia*, the role of the United Nations in this area.

5. The Commission may also wish to suggest appropriate follow-up action on the proposal for the development of minimum rules for the administration of criminal justice, in accordance with Council resolution 1994/17 of 25 July 1994. Comments on this issue from Governments and other institutions are contained in a report of the Secretary-General before the Commission (E/CN.15/1995/7/Add.1).

I. REGULAR REPORTING AND ESTABLISHMENT OF DATABASES

A. Selected standards

6. The Council, in its resolution 1993/34, section III, of 27 July 1993, requested the Secretary-General to commence without delay a process of information-gathering to be undertaken by means of surveys, such as reporting systems, and contributions from other sources, initially paying attention to the following United Nations standards, norms and guidelines: the Standard Minimum Rules for the

Treatment of Prisoners; the Code of Conduct for Law Enforcement Officials, together with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power; and the Basic Principles on the Independence of the Judiciary.[1] The Council also requested that the surveys should be conducted over a two-year period in order to enable Member States to have sufficient time to provide replies, and that the results of the first surveys should be considered at the earliest possible session of the Commission.

7. In pursuance of the above request, the Crime Prevention and Criminal Justice Branch elaborated draft questionnaires on the use and application of the above-mentioned standards and submitted them to the Commission on Crime Prevention and Criminal Justice at its third session for consideration (E/CN.15/1994/CRP.5-8). The Commission at its third session, including in its open-ended in-sessional working group, held extensive discussions on this issue. Some speakers stated that it was a step in the right direction, and that responding to the questionnaires might involve all interested segments of society, including criminal justice professionals and non-governmental organizations. Particular attention should be paid to the utilization of the feedback that would result from the questionnaires and to the evaluation of the degree of implementation of the United Nations standards and norms. Some delegations requested the Secretariat to not only use the questionnaires but also to explore other assessment methods that might provide useful results.

8. On the recommendation of the Commission at its third session, the Council, in its resolution 1994/18, endorsed the questionnaires referred to above and invited Member States to reply to them. Member States were also invited to provide their views and comments for an evaluation of the questionnaires, so that the results could be used as a guideline for further improving the review process and that further surveys should reflect feedback received through them.

9. In accordance with this mandate, a note verbale was sent to all Member States on 24 August 1994. As of 18 April 1995, the following countries had replied to the respective questionnaires:

(a) *Standard Minimum Rules for the Treatment of Prisoners*. Replies received from the following 31 countries: Armenia, Colombia, Croatia, Czech Republic, Finland, France, Germany, Greece, Ireland, Jordan, Latvia, Lebanon, Liechtenstein, Malawi, Morocco, Mexico, Netherlands, Pakistan, Qatar, Republic of Korea, Romania, San Marino, Slovakia, Sweden, Syrian Arab Republic, Tajikistan, Thailand, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America* and Vanuatu;

(b) *Code of Conduct for Law Enforcement Officials, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*. Replies received from the following 32 countries: Australia, Austria, Belarus, Colombia, Costa Rica, Czech Republic, Finland, France, Ireland, Israel, Jordan, Lebanon, Liechtenstein, Malawi, Morocco, Mexico, Mongolia, New Zealand, Niger, Oman, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Tonga, Turkey, United Kingdom, United States and Vanuatu;

(c) *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*. Replies received from the following 17 countries: Argentina, Australia, Canada, Finland, France, Greece, Lebanon, Morocco, Mexico, Netherlands, New Zealand, Oman, Qatar, San Marino, Sweden, Tonga and Vanuatu;

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*Reply received from the State of Mississippi.

(d) *Basic Principles on the Independence of the Judiciary*. Replies received from the following 28 countries: Argentina, Australia, Belarus, Canada, Colombia, Dominican Republic, Finland, France, Germany, Greece, Guyana, Japan, Jordan, Malawi, Morocco, Mexico, Niger, Oman, Portugal, San Marino, Singapore, Spain, Sudan, Sweden, Tonga, Turkey, United States and Vanuatu.

10. So far, the replies received suggest that Member States provided comprehensive answers. In addition, a number of Member States provided supplementary information on their legislative background concerning the various topics (penitentiary, law enforcement, judiciary and victims assistance).

11. The Secretariat intends to send a further note verbale to Member States which have not yet replied. In pursuance of Council resolution 1994/18, four reports evaluating the replies received on the four questionnaires will be presented to the Commission at its fifth session.

12. The information collected through the various surveys will be used to establish databases on the respective subject-matters which will be made available to policy makers, practitioners, professional organizations, academic institutions and other interested parties.

B. Capital punishment

13. The Commission may wish to recall that at its third session it was informed by the Secretariat that in accordance with Council decision 1994/206 of 3 February 1994, a report on the question of capital punishment, including implementation of the safeguards, was to be submitted to the Council in 1995 (E/CN.15/1994/7, para. 78). It should also be recalled, in this connection, that the Council, in its resolution 1745 (LIV) of 16 May 1973, invited the Secretary-General to submit periodic and analytical reports at five-year intervals, starting from 1975. In its resolution 1989/64 of 24 May 1989, the Council invited Member States to facilitate the efforts of the Secretary-General to gather comprehensive, timely and accurate information about the implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty and the death penalty in general. In the same resolution, the Council recommended that the report of the Secretary-General on the question of capital punishment, in pursuance of its resolution 1745 (LIV), should henceforth also cover the implementation of the safeguards. Further, in its resolution 1990/51 of 24 July 1990, the Council invited Member States to respond to the questionnaire to be sent by the Secretary-General requesting information for the preparation of the fifth quinquennial report on capital punishment, in 1995. Accordingly, the Secretary-General invited Member States, by note verbale of 22 November 1994, to reply to a questionnaire on the above-mentioned subjects. The report thereon, to which 53 Member States and 7 non-governmental organizations had replied as of 20 April 1995, will be submitted to the Council.

II. USE AND APPLICATION OF UNITED NATIONS STANDARDS AND NORMS

14. The Council, in its resolution 1994/18, stressed the role of the United Nations in promoting the use and application of existing standards and norms, through technical cooperation programmes and advisory services, including training programmes and fellowships. The Council also placed special emphasis on the widest possible dissemination of standards and norms through the development of manuals and other forms of guidance for law enforcement officials and criminal justice personnel. Vital importance was attached to the coordinated activities with other United Nations entities and institutes, as well as intergovernmental and non-governmental organizations.

15. The observance of human rights and the promotion of democracy can be ensured and preserved only if there is an effective and fair system of law enforcement and justice. The scope of criminality

is posing great dangers to the welfare of all States through the rising incidence of crime generally and through the many forms of criminal activity that have international dimensions. This phenomena is imposing enormous costs in both human and material terms, especially in its new and transnational forms, to States, *inter alia*, developing countries and countries in transition, as well as to individual victims. Therefore, the establishment of a fair and effective system of criminal justice is an essential element for the promotion of human rights for all and the sustainable development of the society.

A. Promotion of the use and application of standards through technical cooperation

16. United Nations standards and norms in crime prevention and criminal justice form an integral part of technical cooperation projects. At the third session of the Commission on Crime Prevention and Criminal Justice, it was pointed out that the best way to ensure lawful discretion in the use of power in the administration of justice was to provide proper training to police and other law enforcement officials, especially by organizing seminars for the training of trainers, in accordance with the principles embodied in existing United Nations standards and norms in crime prevention and criminal justice. In spite of the limitation of resources available, the Branch has been planning, preparing and delivering many technical cooperation programmes, including training courses and seminars. Further, the Branch has been providing some assistance to the United Nations peace-keeping and peace-building operations. Specific information on technical cooperation activities is available in a report of the Secretary-General before the Commission (E/CN.15/1995/6).

17. The extent to which technical cooperation projects can be implemented depends to a large extent on the resources available to the Branch. Therefore, the Council, in its resolution 1994/18, once again invited Member States to strengthen the human and financial resources available to the Branch by, for example, contributing to the United Nations Crime Prevention and Criminal Justice Fund, in order to enable the Branch to better assist States in conducting seminars, workshops, training programmes and other activities for promoting the use and application of standards and norms. In the same line, more consolidated cooperation and coordination of activities with other United Nations entities, interregional and regional institutes and advisers, potential donor countries, academic institutions and interested intergovernmental and non-governmental organizations is urgently required.

18. Among the training courses, seminars and missions which members of the Branch were involved in or have undertaken, the majority dealt with the promotion of the United Nations standards in the field of crime prevention and control.

19. Special emphasis was given to the promotion of the standards related to juvenile delinquency. An expert group meeting entitled Children and Juveniles in Detention: Application of Human Rights Standards was held at Vienna, hosted by the Government of Austria and organized by the Centre for Human Rights, the Branch and the United Nations Children's Fund (UNICEF). In this meeting, ways and means of applying United Nations instruments in the field of juvenile justice were discussed. The meeting produced a series of recommendations in the area of standard setting and implementation, coordination and technical cooperation, children and juveniles deprived of their liberty, instrumental use of children and juveniles by adults in and for criminal activities, and exploitation of children. The Commission on Human Rights, in its resolution 1995/41 on human rights in the administration of justice, in particular children and juveniles in detention, took note with appreciation of the recommendations of this meeting, set forth in document E/CN.4/1995/100, a copy of which will be made available to the Commission.

20. Conferences and seminars on juvenile justice were held in Sao Tome and Principe and at Bangkok, Bremen, Hanoi, Jerusalem and Tel Aviv. Members of the Branch delivered statements and lectures at

these events, where the promotion of the use and application of standards related to juvenile justice was a key issue.

21. A draft manual on juvenile justice standards, policy and implementation, prepared by the Branch with the support of the Arab Security Studies and Training Centre, is being finalized, in cooperation with the Centre for Human Rights and UNICEF, to be used as a guide for professionals in the field of juvenile justice. It is envisaged that the text will be published in the course of 1995.

B. Assistance to United Nations special operations

22. At the third session of the Commission on Crime Prevention and Criminal Justice, it was underlined that the United Nations crime prevention and criminal justice programme has made an important contribution to special missions of the United Nations, such as peace-keeping and peace-building operations. The need for appropriate training of the diverse elements of international peace-keeping personnel was stressed. Reference was made to the programme's involvement in Cambodia and in Somalia, as well as in the former republics of Yugoslavia. On the recommendation of the Commission, the Council, in its resolution 1994/22 of 25 July 1994, welcomed with appreciation the contribution of the United Nations crime prevention and criminal justice programme to United Nations peace-keeping and special missions, as well as its contribution to the follow-up to those missions, particularly with respect to strengthening the rule of law and institution-building.

23. United Nations standards and norms in crime prevention and criminal justice provide a useful basis for an introductory training course for peacekeepers. This kind of assistance to United Nations peace-keeping and peace-building operations has proved to have a useful effect on peacekeepers, so that they can pursue their daily tasks in conformity with the principles of United Nations standards and norms.

24. To facilitate this assistance, the Branch has developed basic courses and manuals, designed to restore and upgrade criminal justice systems. For example, a basic manual entitled: *United Nations Criminal Justice Standards for Peace-keeping Police* (Blue Book) has been prepared, with a synthesis of criminal justice, human rights and humanitarian law standards relevant to the work of United Nations peacekeepers. An introductory training curriculum prepared by the Branch on the basis of relevant United Nations crime prevention and criminal justice instruments was integrated in a broader training *Manual for United Nations Staff on Mission Service in Peace-keeping and Peace-building Operations*, prepared by the Office of Human Resources Management of the United Nations Secretariat in 1994.

25. The Branch was represented at consultations on Palestinian Police Training, held in Gaza, Palestine. The consultations were followed up by two training courses on police and criminal justice management, held in Gaza, from 27 November to 9 December 1994, which were organized by the Branch as part of the United Nations Integrated Assistance Programme for the Palestinian Civil Police. The training of Palestinian police officers is one of the most urgent tasks entrusted to the United Nations, in order to assist in peace-building in that region. The courses were organized in cooperation with the Special Coordinator in the Occupied Territories. The implementation of the training courses was made possible through the generous support of the Swedish International Development Authority. Each of the training courses comprised about 40 participants at the middle-management level, who in turn would be acting as trainers for their respective staff. Participants were briefed on United Nations standards, and all of them were provided with copies, in Arabic, of the relevant United Nations standards for their work as law enforcement officials. Representatives of the Branch held personal consultations with the Chairman of the Palestine Liberation Organization and heads of the Palestinian Police, in order to discuss follow-up activities. A representative of the Branch attended an Inter-Agency Meeting, held in Gaza from 7 to 8 December 1994, where more than 20 United Nations organizations met to discuss ways and means of achieving an integrated approach to social and economic development in the occupied territories.

C. Advisory services

26. Advisory services are an essential element of the promotion of the use and application of norms and standards by assisting, *inter alia*, in law reform, drafting of new legislation, improving the administration of criminal justice and setting up crime prevention policies for developing countries and countries that are in the process of reforming and democratizing their criminal justice systems.

27. In addition to the activities being undertaken by the Branch, the two interregional advisers for crime prevention and criminal justice and the regional adviser assigned to the Economic and Social Commission for Asia and the Pacific (ESCAP) are responsible for providing direct advisory services to Governments at their request, in close cooperation with the Branch. Their main task is to translate United Nations instruments into specific actions that take into account the economic, social, cultural and political circumstances of the country concerned.

1. Law reform assistance

28. At the request of the State Law Department of the Administration of the President of the Russian Federation, the Branch is assisting in a judicial reform project in the Russian Federation, with special emphasis on the Basic Principles on the Independence of the Judiciary, as well as the Basic Principles on the Role of Lawyers and the Guidelines on the Role of Prosecutors.

29. Assistance is also being given to the democratically elected Government of Cambodia in the implementation of suitable criminal justice and prosecutorial legislation and regulatory mechanisms. This work follows from earlier missions by the Branch to Cambodia, including the preparation of a reference and training manual for the conduct of criminal justice in Cambodia, a code of conduct for public officials and detailed commentary and training guidelines, on the basis of relevant United Nations standards and norms in crime prevention and criminal justice.

30. Another example of advisory services is the assistance to the Government of Belarus in the finalization of the draft Criminal Code and the draft Code of Criminal Procedure. In cooperation with the Centre for Human Rights, recommendations were prepared for both draft laws, which were in conformity with the principles embodied in United Nations standards and norms in crime prevention and criminal justice.

2. Interregional advisers

31. The missions undertaken by the interregional advisers were all related to the development of criminal justice systems, especially of developing countries and countries in transition. They provided specific suggestions on how United Nations instruments could be reflected in domestic legislation and put into practice in the countries concerned. In the light of the increasing demand for advisory services by the interregional advisers, in the programme of work for the biennium 1994-1995, two posts of interregional adviser were established on a regular basis. The selection and appointment of those advisers was completed in October 1994. The General Assembly, in its resolution 49/158 of 23 December 1994, welcomed the appointment of two interregional advisers in crime prevention and criminal justice. Since then, they have resumed their active services in order to facilitate the effective use and application of United Nations standards and norms in a practical context.

32. The interregional advisers undertook several technical missions for this purpose, *inter alia*, to Benin, Hong Kong, Macao, South Africa and Thailand. On the occasion of the United Nations World Ministerial Conference on Organized Transnational Crime, held at Naples, Italy, from 21 to

23 November 1994, the interregional advisers also conducted informal consultations with the representatives of interested Governments in order to identify priority actions for their services.

3. Regional adviser at the Economic and Social Commission for Asia and the Pacific

33. As a counterpart of the interregional advisers at the regional level, the regional adviser at ESCAP, whose post is funded by the Government of Japan, has undertaken advisory missions to countries in the Asia and Pacific region, in particular Cambodia, China, Nepal and Philippines. In these missions, he provided extensive information on the treatment of offenders and juvenile delinquents in the Asian context.

34. The regional adviser has also engaged in the publication of manuals. For example, *Rehabilitation of Juvenile Delinquents in the ESCAP Region* has been issued in English, in cooperation with the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders. Another publication, *Study on the Implementation of United Nations Mandates on Juvenile Justice Administration in the ESCAP Region*, was issued in English, with the financial contribution of the Asia Crime Prevention Foundation.

35. The regional adviser undertook advisory services in the Philippines, with the intention of assisting in the improvement of the treatment measures and the enhancement of the effective rehabilitation programmes for juvenile delinquents.

36. While the necessity for the appointment of additional regional advisers has frequently been emphasized, the only post that has been created so far is that of the regional adviser in the ESCAP region. More regional advisers are required in order to promote the effective use and application of United Nations standards and norms and, in particular, to ensure realistic approaches that take into consideration the social, cultural and economic conditions of the regions concerned. The regional advisers would work in close cooperation with the Crime Prevention and Criminal Justice Branch.

D. Dissemination of standards

37. The widest dissemination of United Nations standards and norms plays a vital role in the process of promoting the use and application of those instruments. The knowledge of United Nations standards and norms by policy makers and criminal justice practitioners enables them to pursue their daily tasks in the administration of justice more fairly and humanely. The promotion of such standards among interested intergovernmental and non-governmental organizations and academic institutions, as well as among the general public, requires particular attention.

1. Compendium

38. The Economic and Social Council, in its resolution 1994/18, placed special emphasis on the widest possible dissemination of the *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice*. While the document was originally available in English only, the Governments of China, France, Russian Federation and Spain have generously committed themselves to the funding of its publication in their languages, and the United Kingdom had provided resources for reprinting it in English. Further , the Government of Portugal has agreed to publish the Compendium in Portugese. These texts have been widely used as an important basis for seminars and workshops for law enforcement and criminal justice practitioners.

2. Other publications

39. At the third session of the Commission on Crime Prevention and Criminal Justice, the important role of training manuals and similar publications for law enforcement officials and criminal justice personnel was reaffirmed. As a result, the Economic and Social Council requested the Secretary-General to continue the further development and distribution of such documents.

40. The *Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions*[2] was prepared by the Crime Prevention and Criminal Justice Branch, in cooperation with the Minnesota Lawyers' International Human Rights Committee now known as the Minnesota Advocates for Human Rights. The Commission on Human Rights, in its resolution 1994/82, strongly condemned the large number of extrajudicial, summary executions which continue to take place throughout the world.

41. The Branch, in cooperation with the Centre for Human Rights and the Minnesota Advocates for Human Rights, has also published a *Handbook of International Standards relating to Pre-trial Detention*,[3] in English. The handbook is meant to increase awareness of the international standards which exist in the area of pre-trial detention, providing practical guidance for the use and application of the standards with advisory guidelines to criminal justice practitioners.

42. Furthermore, as a joint publication with the UNESCO Institute, Hamburg, the Branch has been engaged in the elaboration of a manual on basic education in prison, which examines ways and means of meeting the challenge posed by prison education, through a review of existing practices throughout the world. The manual will be offered to decision makers, administrators, educators and non-governmental organizations, in order to promote education in the special environment of penal establishments. It is envisaged that the manual will be issued in English in the course of 1995.

43. The Branch and Penal Reform International are planning to issue a joint publication entitled *Manual on "Making Standards Work"*. The *Manual* is designed to provide guidelines on the application of the United Nations Standard Minimum Rules for the Treatment of Prisoners, and is expected to be issued in the course of 1995. It was finalized at the International Conference on "Making Standards Work", which was organized by Penal Reform International and sponsored by the Ministry of Justice of the Netherlands, at the Hague, from 17 to 19 November 1994. The *Manual* can serve as a useful instrument for those working daily with prisoners, as well as assist prison management for its efforts to observe international standards.

E. Cooperation with United Nations activities in the field of human rights

44. The importance of effective cooperation and coordination of activities in the use and application of United Nations standards and norms with other United Nations entities, regional institutes, as well as interested intergovernmental and non-governmental organizations, has been repeatedly stressed by the policy-making bodies of the Organization. Most recently, the General Assembly, in its resolution 49/158 of 23 December 1994, requested the Secretary-General to take all necessary measures to assist the Commission on Crime Prevention and Criminal Justice, as the principal policy-making body in the field of crime prevention and criminal justice, in performing its functions and to ensure the proper coordination of all relevant activities in the field, in particular with the Commission on Human Rights.

1. Coordination of activities

45. Crime prevention, criminal justice and human rights issues are inseparably linked. The promotion and protection of human rights depends to a large extent on effective crime prevention policies and

strategies. Where society is victimized by rampant crime and violence, citizens can hardly enjoy their human rights and individual freedoms. Thus, full enjoyment of human rights can be facilitated through concerted efforts to ensure the safety of citizens in their daily life by, *inter alia*, combating national and transnational crime. Therefore, the establishment of fair and effective systems of criminal justice is a prerequisite for the promotion of human rights and the rule of law.

46. Conversely, efforts aimed at crime prevention and control should pay due regard to human rights and the rule of law, otherwise criminal policy becomes arbitrary, discriminatory and oppressive. These are the reasons why a delicate balance between crime prevention and criminal justice and the promotion and protection of human rights should exist. That is why both programmes in the framework of the United Nations are cooperating closely and their activities are being constantly coordinated, although their purpose and focus might be different.

47. In order to follow up the Vienna Declaration and Programme of Action (A/CONF.157/24 (Part I), chap. III), adopted by the World Conference on Human Rights, as well as to facilitate cooperation and coordination between the human rights programme and the crime prevention and criminal justice programme more effectively and systematically, the Council, in its resolution 1994/18, requested the Secretary-General to promote the use and application of United Nations standards and norms in crime prevention and criminal justice. This should be done, *inter alia*, by ensuring the participation of members of the Branch in the discussion of the relevant issues in the Commission on Human Rights and its Subcommission on Prevention of Discrimination and Protection of Minorities.

48. The attention of the Commission on Crime Prevention and Criminal Justice may be drawn to the establishment, on the occasion of the forty-sixth session of the Subcommission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights, of a sessional working group on the administration of justice and the question of compensation (E/CN.4/Sub.2/1994/22). On that occasion, an extensive discussion on analysis of the work of the Subcommission and of the Commission on Crime Prevention and Criminal Justice was held, with a view to improving further cooperation and coordination. In an analysis of the work of the Subcommission and of the Commission on Crime Prevention and Criminal Justice, the sessional working group pointed out that the coordination of activities between the two programmes had moved from an empirical case-by-case principle to close cooperation, in particular in working out the implementation of some joint projects. In the view of the members of the working group, the Subcommission should continue to coordinate its work with the activities of the Commission on Crime Prevention and Criminal Justice and with the United Nations Congresses on the Prevention of Crime and the Treatment of Offenders. The working group is envisaged to continue its discussion at the forty-seventh session of the Subcommission in 1995.

49. Reference has been made to Commission on Human Rights resolution 1994/45 and the adoption by the Commission on Crime Prevention and Criminal Justice, at its third session in 1994, of its resolution 3/1 on violence against women and children. Both resolutions called for intensified effort at the international level to integrate the equal status of women and the human rights of women into the mainstream of United Nations system-wide activity and to address those issues regularly and systematically in relevant United Nations bodies and mechanisms.

50. Coordination of activities was also considered in the Working Group on Arbitrary Detention of the Commission on Human Rights. It is noteworthy that the Crime Prevention and Criminal Justice Branch was requested by the Chairman of the Working Group on Arbitrary Detention to raise, at the fourth session of the Commission on Crime Prevention and Criminal Justice, the question whether detention prior to extradition should not be regarded as arbitrary if it is taken into account in the sentence finally pronounced in the requesting country. At its last session, held from 16 to 20 May 1994, the Working Group considered this question and finally agreed that it was a problem of sound administration of

justice, rather than arbitrary detention. In this context, on the occasion of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, a one-day workshop on extradition and international cooperation has been included in the agenda of the Congress. Therefore, the Commission on Crime Prevention and Criminal Justice may wish to refer to the discussion and conclusions of that workshop.

2. 1995 Commission on Human Rights

51. As in the past, matters of common concern with the human rights programme were emphasized by the Commission on Human Rights at its fifty-first session in 1995. The Commission adopted resolution 1995/41, on human rights in the administration of justice, in particular children and juveniles in detention, in which it welcomed the work of the Commission on Crime Prevention and Criminal Justice, and emphasized the importance of coordinating the activities of both Commissions in this field. The importance of the full implementation of all relevant United Nations standards on human rights in the administration of justice is reaffirmed. The Commission took note with appreciation of the recommendations of the Expert Group Meeting on Children and Juveniles in Detention: Application of Human Rights Standards, held at Vienna from 30 October to 4 November 1994 (see E/CN.4/1995/100, para. 16).

52. In resolution 1995/37, on torture and other cruel, inhuman or degrading treatment or punishment, the Commission on Human Rights underlined the relevance of, *inter alia*, the Standard Minimum Rules for the Treatment of Prisoners and the Code of Conduct for Law Enforcement Officials, for the eradication of torture. In the same resolution, it extended the mandate of the Special Rapporteur on torture for another three years. The Special Rapporteur should continue to have a further exchange of views with the relevant human rights mechanisms and bodies entrusted with the task of combating torture, and should pursue cooperation with relevant United Nations programmes, notably that on crime prevention and criminal justice.

53. In its resolution 1995/36, on independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers, the Commission on Human Rights welcomed the first report submitted by the Special Rapporteur on the independence of judges and lawyers (E/CN.4/1995/39), and noted with appreciation his determination to achieve as wide a dissemination as possible of information about existing standards relating to the independence and impartiality of the judiciary.

54. In its resolution 1995/59, on arbitrary detention, the Commission encouraged States to endeavour to take appropriate measures to ensure that their legislation in this field is in conformity with the relevant international instruments.

55. The Commission on Human Rights called upon the international community to give increased attention to the right to restitution, compensation and rehabilitation of victims of grave violations of human rights and fundamental freedoms, in its resolution 1995/34. This should be done under the guidance of the relevant instruments in that field.

56. In its resolution 1995/25 of 3 March 1995, on traffic in women and girls, the Commission on Human Rights, aware of resolution 3/2 on international traffic in minors of the Commission on Crime Prevention and Criminal Justice, expressed its grave concern at the worsening problem of trafficking, particularly the increasing syndication of the sex trade and the internationalization of the traffic in women and girl children. The Commission invited the Ninth Congress to consider the subject of the traffic in women and girl children.

3. Subcommission on Prevention of Discrimination and Protection of Minorities

57. On the occasion of the forty-sixth session of the Subcommission on Prevention of Discrimination and Protection of Minorities, held at Geneva, from 1 to 26 August 1994, the issues of mutual interest between the crime prevention and criminal justice programme and the human rights programme were extensively discussed. Primary attention was given to such issues as: the question of human rights of persons subject to any form of detention or imprisonment; the question of human rights and states of emergency; individualization of prosecution and penalties, and repercussions of violations of human rights on families; the right to a fair trial; and independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers. Particularly, the Subcommission, in its resolution 1994/35, endorsed the summary of norms and interpretations embodied in the draft body of principles on the right to a fair trial and a remedy (E/CN.4/Sub.2/1994/24, annex II). This would be an area where expertise and experience of both programmes may be further used.

F. Cooperation with the International Year of the Family

58. The International Year of the Family, which was observed in the course of 1994, offered an opportunity to highlight the important role of the family in crime prevention and criminal justice and to promote action on the various related aspects. This role was specified in the three standards on juvenile justice: the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines); and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

59. Families have a pivotal role to play also in the treatment and rehabilitation of members who have been convicted of crimes. The United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) place special emphasis on the role of the family in this area, because non-custodial measures are most effective where there are coordinated efforts, with adequate support, by the family of the offender, the correctional system and social welfare agencies (see *Commentary on the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules)* (ST/CSDHA/22).

60. In the course of the International Year of the Family, the role of the family in crime prevention and criminal justice was emphasized, through seminars and workshops organized by the coordinator of this event. The study entitled *Family and Crime* (Occasional Paper Series, number 3, 1992), which was prepared by the Crime Prevention and Criminal Justice Branch and published by the secretariat of the International Year of the Family, made invaluable contribution to that connection. The Branch was also actively involved in the fourth (March 1994) and fifth (May 1995) Inter-Agency Meeting on the International Year of the Family.

61. On the occasion of these five regional preparatory meetings for the Ninth Congress, which were held in the course of the International Year of the Family, many participants referred to the important role which the Year could make in the promotion of the use and application of United Nations standards and norms in crime prevention and criminal justice. Therefore, the Council, in its resolution 1994/18, invited the Coordinator of the International Year of the Family to report to the Ninth Congress on activities related to crime prevention and criminal justice undertaken in observance of the Year.

G. Advancement of women

62. In accordance with the increasing concern of the world community with the issue of violence against women, further cooperation and coordination of activities between the crime prevention and

criminal justice programme and the programme of advancement of women has been attached particular importance.

63. The Commission on Crime Prevention and Criminal Justice, in its resolution 3/1 of 6 May 1994 on violence against women and children, called for the elimination of violence against women and children in the family, in the general community and where perpetrated or condoned by the State, and emphasized the duty of Governments to refrain from engaging in violence against women and children and to exercise due diligence to prevent, investigate and, in accordance with national legislation, to punish acts of violence against women and children, and to provide access to just and effective remedies and specialized assistance to victims. In the same resolution, the Commission also encouraged the strengthening of cooperation and coordination with the Commission on the Status of Women, the Committee on the Elimination of Discrimination against Women, the United Nations Development Fund for Women etc.

64. The Commission on Crime Prevention and Criminal Justice, in the same resolution, requested the Ninth Congress to consider violence against women and violence against children as separate questions under topic 4 and in the context of the workshop on the prevention of violent crime and to propose recommendations to the Commission in respect of legislation, procedures, policies, practices, and technical cooperation and assistance, as well as of social services, education and the dissemination of information. The Commission also decided to continue its consideration of the issue at its fourth session by having its in-sessional working group examine, as separate questions, violence against women and violence against children in their crime prevention and criminal justice aspects and, more particularly, specific measures which can be taken in that respect, in the light of the international instruments and recommendations of the Ninth Congress.

65. These recommendations of the Congress, as well as those of the Commission, should be elaborated in the context of the preparations for the Fourth World Conference on Women: Action for Equality, Development and Peace, to be held at Beijing from 4 to 15 September 1995. It may be recalled that the General Assembly, in its resolution 49/166 of 23 December 1994, invited, *inter alia*, the Ninth Congress and the Fourth World Conference on Women to consider including in their respective programmes of action the subject of the traffic in women and girl children.

66. Since violence against women, especially domestic violence, is frequently a recurring phenomenon, victims are often reluctant to report it and uncooperative to criminal justice authorities. Therefore, unless there is due attention to the treatment of victims and their safety, criminal proceedings may eventually result in their revictimization. This highlights the necessary application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power in dealing with the issue. The Declaration includes recommendations on measures to be taken to improve access to justice and fair treatment, restitution, compensation and social assistance for victims of crime. Such measures are of special importance to the protection of women.

H. World Summit for Social Development

67. The World Summit for Social Development, held at Copenhagen from 6 to 12 March 1995, focused its attention on enhancing social integration, an issue of great relevance to the use and application of standards and norms in crime prevention and criminal justice.

68. It is broadly understood that crime should not be interpreted merely as a problem of illegal behaviour and law enforcement, but also as a phenomenon closely linked with economic and social development. According to article 11 of the Declaration on Social Progress and Development, proclaimed by the General Assembly by its resolution 2542 (XXIV) of 11 December 1969, social

progress and development should aim equally at the attainment of certain main goals, including the provision of social defence measures and the elimination of conditions leading to crime and delinquency, especially juvenile delinquency.

69. In the Declaration of the World Summit for Social Development, it is stated that social development and social justice are indispensable for the achievement and maintenance of peace and security within and among nations. Social development and social justice cannot be attained in the absence of peace and security or in the absence of respect for all human rights and fundamental freedoms. In the Declaration the importance of the fight against worldwide conditions which pose severe threats to the health, safety, peace, security, and the well-being of the people, including, *inter alia*, illicit drug problems, organized crime, corruption, illicit arms trafficking and terrorism, is also stressed.

70. In addition, the Declaration sets out the principles and goals of the international community, which include, *inter alia*: promotion of democracy, human dignity, social justice and solidarity at the national, regional and international levels; promotion of universal respect for, and observance and protection of, human rights and fundamental freedoms for all; promotion of the effective exercise of rights and the discharge of responsibilities at all levels of society; promotion of the strengthening of social integration and civil society; and support of progress and security for people and communities, whereby every member of society is enabled to satisfy basic human needs and to realize their personal dignity, safety and creativity.

71. The Programme of Action of the World Summit for Social Development therefore includes, in its chapter on social integration, a special section, entitled "Violence, crime, the problem of illicit drugs and substance abuse" (chap. IV, sect. F).

72. The Summit pronounced that social integration requires the introduction of specific policies to prevent and eliminate violence in society, with particular attention to violence against women, children, persons with disabilities and the elderly, and the full respect of the Declaration on the Elimination of Violence against Women, and the Convention on the Rights of the Child.

I. Cooperation with non-governmental organizations

73. Non-governmental organizations have contributed significantly to the promotion of the use and application of United Nations standards and norms in crime prevention and criminal justice by holding seminars and meetings, conducting individual research and studies and publishing reports and manuals on the subject. Their contributions to seminars and workshops, as well as through the publication of manuals and handbooks, are essential to the activities of the Branch in this area.

74. United Nations activities aimed at promoting the use and application of standards and norms benefit greatly from cooperation and contributions from interested non-governmental organizations. The Raoul Wallenberg Institute of Human Rights and Humanitarian Law, Penal Reform International, the International Association of Penal Law, the International Society for Criminology, Defense for Children International, the Minnesota Advocates for Human Rights, the International Society of Social Defence and many others give considerable support to the United Nations crime prevention and criminal justice programme. The International League for Human Rights, Amnesty International and the World Organization against Torture (SOS-Torture), like many others, continue to draw attention to torture and other forms of mistreatment of prisoners which violate the principles contained in the Standard Minimum Rules for the Treatment of Prisoners. The International Commission of Jurists, the International Association of Judges and the International Bar Association are seeking to promote the Basic Principles on the Independence of the Judiciary and the Basic Principles on the Role of Lawyers.

The International Penal and Penitentiary Foundation, the Howard League for Penal Reform, the Friends World Committee for Consultations and the International Prisoners' Aid Association are committed, among others, to reform the penal system, in accordance with United Nations standards.

75. The International Scientific and Professional Advisory Council (ISPAC), in cooperation with the Government of Italy, and under the auspices of the Crime Prevention and Criminal Justice Branch, organized the International Conference on Preventing and Controlling Money-Laundering and the Use of the Proceeds of Crime: A Global Approach, from 18 to 20 June 1994, at Courmayeur, Italy. ISPAC, which has been established to coordinate and strengthen the work of non-governmental organizations, academic institutions and other entities within the framework of the United Nations crime prevention and criminal justice programme, gives continuous support to the work of the Branch, especially in the area of technical cooperation activities.

76. The Alliance of Non-governmental Organizations in Crime Prevention and Criminal Justice (New York) has conducted surveys on health care in prisons, in consultation with the Crime Prevention and Criminal Justice Branch. The Alliance of Non-governmental Organizations in Crime Prevention and Criminal Justice (Vienna) played a significant role in the exploration of innovative ways and means for the more effective use and application of United Nations standards and norms in crime prevention and criminal justice. Both alliances also had a significant part in the preparations for and conduct of the Ninth Congress.

77. During the Ninth Congress, non-governmental organizations organized ancillary meetings on many issues related to its priority, such as care for victims of crime; juvenile crime in urban areas; community participation in corrections and alternatives to incarceration; an international handbook on good prison practice; migration and crime; reintegration of children following wars and other situations of community violence; drug legislation; transfer of criminal sanctions; restorative justice; life imprisonment; and the role of the public prosecutor in criminal justice under different constitutional systems.

78. On the occasion of the third session of the Commission on Crime Prevention and Criminal Justice, informal consultations on the establishment of an international association of prosecutors were held, on the initiative of the Hungarian National Association of Prosecutors and the Government of Hungary, with a view to promoting international cooperation among prosecutors and the application of the Guidelines on the Role of Prosecutors. On that occasion, an international committee composed of participants from Germany, Hungary, Ireland, Netherlands and United Kingdom examined the draft statute of the association, and discussed practical steps towards its establishment.

III. CONCLUDING REMARKS

79. As repeatedly reaffirmed by United Nations policy-making bodies, United Nations norms, standards, guidelines and model treaties are a distillation of government recommendations and expert advice and can serve as a point of departure for developing national policies.

80. While the use and application of United Nations standards and guidelines is a responsibility of Governments, there is a collective responsibility of the international community to facilitate the process. The purpose of the activities undertaken by the international community in this area should not be to criticize Governments. Therefore, Member States should take these initiatives as advisory guidance for their own benefit.

81. The Council, in its resolution 1994/18, requested the Commission to continue to give special attention to the use and application of United Nations standards and norms in crime prevention and criminal justice. The Council also requested the Commission to continue its consideration of the question at its fourth session by asking an open-ended in-sessional working group to discuss, *inter alia*, the role of the United Nations in promoting the use and application of standards and norms in crime prevention and criminal justice.

82. Accordingly, the Commission may wish to discuss, *inter alia*, the following issues:

(a) The role of the United Nations in promoting the use and application of standards and norms in crime prevention and criminal justice, including coordination and cooperation in this field;

(b) Measures to improve the dissemination of information, education and technical assistance to enhance their use and application.

83. The Commission may also wish to pay special attention and propose appropriate follow-up to the pertinent conclusions and recommendations of the Ninth Congress, including the discussions at the relevant workshops.

84. As the Council, on the recommendation of the Commission at its third session, has selected four sets of standards for immediate action, the Commission may wish to suggest the format of presentation of the results as well as to identify other instruments for subsequent action in order to enable the Secretariat to start preparing draft questionnaires for submission to the fifth session of the Commission for its consideration.

85. The Commission may further wish to explore ways and means of institutionalizing cooperation with the human rights programme, as suggested in a note prepared by the Secretariat for the meeting of the Subcommission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights (E/CN.4/Sub.2/1994/WG.1/CRP.1).

86. As has been pointed out, the coordination of activities between the two programmes has moved from an empirical case-by-case basis to close cooperation, in particular to working out and implementing joint projects. The institutionalization of system-wide cooperation and coordination of activities is an enormous task, due to the wide differences between terms of reference of relevant organs and bodies and the number of activities involved. It should also be remembered that each organ and body has its own identity, and it is important that this identity be retained within the operation of the system of cooperation and coordination.

87. In the view of the secretariat, the Commission on Crime Prevention and Criminal Justice and the periodic United Nations congresses on the prevention of crime and the treatment of offenders should continue to coordinate their work with the Commission on Human Rights and its Subcommission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights as well as their special rapporteurs. At the same time, the special rapporteurs on torture, arbitrary executions, the right to a fair trial, violence against women and children and impunity, as well as the respective officers of the Centre for Human Rights, should also work closely with the relevant mechanisms and institutes of the United Nations crime prevention and criminal justice programme.

88. Coordination is frustrated by the lack of resources, both monetary and human. In particular, the lack of funds has prevented the participation of the representatives of the Branch in the elaboration of new instruments in the field of human rights, in the administration of justice as well as in monitoring and implementing existing instruments.

89. The programmes and budgets of the pertinent United Nations organs very seldom provide for concrete concerted action in this field. Given that fact, it seems very desirable, as a matter of principle, that the Commission on Crime Prevention and Criminal Justice and the United Nations human rights organs, including the Commission on Human Rights, which oversees the advisory services programme of the Centre for Human Rights, should coordinate their activities in the above-mentioned matters.

90. In sum, there seems to be a need for further coordination in this field, with a view to elaborating and developing concepts and policies, undertaking joint programmes and developing collaborative mechanisms. There is also a need, while focusing on crime prevention and criminal justice issues, to remain cognizant of, and to incorporate, where possible, meaningful human rights concerns, and thus to contribute to the achievement of the goal whereby the promotion and protection of human rights should permeate the activities of the United Nations, on the basis of the Vienna Declaration and Programme of Action of the World Conference on Human Rights.

Notes

[1]See *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice* (United Nations publication, Sales No. E.92.IV.1).

[2]United Nations publication, Sales No. E.91.IV.1.

[3]United Nations publication, Sales No. E.94.XIV.6.

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Item 6 of the provisional agenda*

UNITED NATIONS STANDARDS AND NORMS IN THE FIELD OF CRIME PREVENTION AND CRIMINAL JUSTICE

Report of the Secretary-General

Addendum

Development of United Nations minimum rules for the administration of criminal justice

Summary

On the recommendation of the Commission on Crime Prevention and Criminal Justice at its third session, the Economic and Social Council, in its resolution 1994/17, requested the Secretariat to seek comments from all Member States and from other appropriate sources on the desirability of preparing and adopting United Nations minimum rules in the field covered by the draft minimum rules prepared by an expert commission. The Secretariat, by 25 April 1995, had received replies from 27 Member States. In addition, five interregional and regional institutes had submitted comments. The replies received reflect the diversity of views expressed on this subject.

*E/CN.15/1995/1.

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INTRODUCTION

1. The Economic and Social Council, in its resolution 1994/17 of 25 July 1994, decided to note the draft minimum rules for the administration of criminal justice, prepared by an expert commission that held four working sessions at Palma de Mallorca, Spain, from 23 to 25 November 1990, from 3 to 5 May 1991, from 5 to 8 September 1991 and from 14 to 16 February 1992, at the invitation of the advisory board to the Presidency of the Balearic Autonomous Community and with the cooperation of the Crime Prevention and Criminal Justice Branch of the Secretariat. The draft text was attached to a note verbale from the Permanent Mission of Argentina to the United Nations Office at Vienna (E/CN.15/1994/11).

2. In the same resolution, the Council requested the Secretary-General to seek comments from all Member States and from other appropriate sources on the desirability of preparing and adopting United Nations minimum rules in the field covered by the draft minimum rules prepared by the expert commission, and to submit a report to the Commission on Crime Prevention and Criminal Justice at its fourth session. The Commission was requested to follow up this matter at its fourth session.

3. Pursuant to the above-mentioned mandate, the Secretary-General, in October 1994, addressed a note verbale to Governments, inviting them to submit observations and comments. A similar request was addressed by the Crime Prevention and Criminal Justice Branch to 49 relevant institutions, including the institutes that comprise the United Nations crime prevention and criminal justice programme network, as well as intergovernmental and non-governmental organizations.

4. By 25 April 1995, replies had been received from the following States: Argentina, Austria, Bahrain, Belarus, Canada, Colombia, Cuba, Cyprus, Denmark, Ecuador, Finland, Germany, Ghana, Japan, Jordan, Kazakhstan, Kuwait, Luxembourg, Namibia, New Zealand, Oman, Panama, Peru, Switzerland, Syrian Arab Republic, Turkey and United Kingdom of Great Britain and Northern Ireland.

5. Replies had also been received from the following institutions: United Nations Interregional Crime and Justice Research Institute (UNICRI), Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, European Institute for Crime Prevention and Control, affiliated with the United Nations, the Arab Security Studies and Training Centre (ASSTC), the International Centre for Criminal Law Reform and Criminal Justice Policy and the International Federation of Business and Professional Women.

6. In view of the length of some replies, not all of them could be fully reflected in the present report. Thus, in several instances, summaries or excerpts of the essential parts had to be made. Copies of the original replies are with the Secretariat.

I. COMMENTS RECEIVED FROM STATES

A. Argentina*

7. Argentina considers the discussion and adoption of the draft minimum rules for the administration of criminal justice to be a matter deserving high priority. It is in the administration of criminal justice that decisions are taken affecting the freedom of citizens, the protection of the community against crime

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*Reply, in original Spanish, received on 3 February 1995.

and the authority of the norms and values that make democratic life possible. As the preamble to the draft very rightly says, the aim is, proceeding from recognized basic rights, to harmonize the requirement of efficient criminal justice with effective consideration for the guarantee of persons whose rights are affected by criminal proceedings.

8. In the effort to maintain this delicate balance, so difficult to achieve, these draft rules represent an exemplary and durable synthesis. If they are adopted by the international community, they will fill a gap as regards the practical functioning of the administration of criminal justice, both in the developing and developed countries. In short, we have in the draft a set of rules whose central core is the protection of fundamental rights, and which shows the way to a new humanism in criminal law and criminal policy for the twenty-first century.

B. Austria*

9. Austria supports the elaboration of minimum rules of the United Nations for the administration of criminal justice and welcomes the existing draft. The draft can be seen to be sufficiently developed, so that it is conceivable to submit it directly to the Commission on Crime Prevention and Criminal Justice where it could be finalized, possibly in the framework of an in-sessional working group.

10. In substance the draft strives to establish, at the level of the United Nations, progressive standards of criminal proceedings. In a few instances, however, it seems to reach too far, in particular as regards rules 7, 10, 11 (2), 12 (2), 12 (5), 20, 44 and 45. Discussions will be required which by way of compromise might result in limiting some of the principles.

11. The following comments were made concerning specific rules:

(a) With regard to rule 4 (1), it is not immediately obvious why not only "findings in criminal matters" but also "prosecutions" should always be the responsibility of independent judges. Such a rule, which Austria cannot support, would seem to be in contradiction to rules 1 (3), 2 and 3;

(b) With regard to rule 7, the principle espoused in the first phrase cannot be maintained without important exceptions. The purpose of certain measures (detention, house research and telephone surveillance) will often require that they are taken without a previous hearing (also compare rule 14 (2)).

C. Bahrain**

12. As regards rule 4 (1), the English and Arabic texts do not correspond. The term "prosecution" in the English text refers to a procedure, before a criminal court, the function of which is not assumed by independent judges in either the Latin or the Anglo-Saxon systems, and therefore the Arabic version is the more correct. Rule 4 (2) is imprecise, because the public prosecution is part of the structure of a criminal court. Incontestably, although it may have previously undertaken investigation of the case, this does not prevent it from representing the prosecution before the court. Similarly, a judge who hears orders for the detention of accused persons (preventive detention), as well as a judge who issues a ruling as a matter of form or jurisdiction, may hear it a second time if such a judgement is overturned by a court of appeal.

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*Reply, in original English, received on 3 February 1995.

**Reply, in original English and Arabic, received on 23 January 1995.

13. As regards rule 7, accused persons who are fugitives or who have escaped should be excepted from this rule, as measures affecting their rights, such as arrest orders and orders for the search of their dwelling places, may be taken without the precondition of a prior hearing.

14. As regards rule 22, preventive detention should be permissible even if the sanction for the offence is imprisonment for less than two years, if the accused person is likely to escape, or if he or she does not have a known domicile. This is in effect in many criminal laws. As regards rule 23 (2), the phrase "when there is no other way to detect the assumed offence" should be replaced with the phrase "when it is possible that it will produce useful evidence in the case". This is preferable to the phrase in the text of this rule, as bodily intervention may be important to proving the offence, even though it may not be the sole proof. The judiciary may permit it here, subject to the reservation that there is no risk to the health of the person concerned, and with maximum respect for the dignity of the person.

15. Rules 44 and 45 should be deleted, as the draft minimum rules are concerned with the establishment of criminal justice within each State, and are not concerned with matters within the competence of international courts. According to rule 1 (1) of the draft, prosecution for an offence shall be the sole competence of the States, in accordance with the law. Furthermore, these minimum rules are a guide aimed at benefiting States to assist them in amending their legislation to make it compatible with the minimum rules.

D. Belarus*

16. The draft pursues the aim of bringing together in one document the most important and fundamental propositions adopted in recent years relating to the United Nations standards and rules for the administration of criminal justice. Considering that the United Nations has adopted a considerable number of quite diverse standards and rules in the sphere of criminal justice, the present attempt at systematization deserves support and approval. In addition, the importance of the work already done should be stressed for the further reason that it represents a first step on the road to implementing the numerous proposals regarding the systematization of United Nations standards and rules, proposals which were aired during both the period of preparation and the work of the earlier congresses on the prevention of crime and the treatment of offenders.

17. From the viewpoint of form and content, the document submitted does not call for any observations of principle. It has been prepared in accordance with the International Bill of Human Rights, and reflects the main features of United Nations standards and rules for the administration of criminal justice, and is intended to protect the rights of the person which are liable to infringement in the course of legal proceedings. On the other hand, the draft does call for some modification in terms of both form and content.

18. While approving the structure of the draft as a whole, we would point out that it is not integrally sustained throughout. There is no specific section devoted to judicial organs. A section of the kind would appear to be essential. Unfortunately, the draft has not reflected certain important aspects of criminal justice which are regulated in international instruments. For, example, there is no section devoted to the passing of sentence and the basic principles by which the court should be guided in this connection.

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*Reply, in original Russian, received on 2 March 1995.

19. It is our belief that these amendments and additions will impart a clearer structure to the text of the draft, and the content of the rules will more closely conform to international standards and rules. Furthermore, in the proposed drafting the minimum rules will cover a wider range of topics, corresponding to established concepts regarding the role of the courts and the problems involved in their operation, and also regarding the protection of the rights of persons affected by the action of criminal justice.

E. Canada*

20. Having regard to the criminal justice system of Canada and of other common law countries that are based on an adversarial procedure of criminal justice, and taking into account the existing international norms and standards and the reasons for the establishment of the United Nations Commission on Crime Prevention and Criminal Justice, the adoption of the proposed draft would entail substantial conflict with the criminal justice procedure of common law systems and, in some situations, would be retrograde or inconsistent with the protection accorded by Canadian constitutionally entrenched rights; would overlap with existing internationally approved instruments in the field; and would not represent a desirable advancement in the context of the credibility of the United Nations crime prevention and criminal justice programme. A number of problems exist in the draft that do not take into account the various legal systems in the world and would be encountered by the common-law, and in particular the Canadian, criminal justice system.

21. Rules 1 (3), 2 and 3 seem to suggest that the judiciary should have some authority over the exercise of discretion as to whether or not the authorities initiate prosecutions. In the common-law system, police and prosecutors exercise their discretion on the basis of well-established principles which are not often set out in written instruments. Although they are part of the criminal justice system, each of them is independent of the other, and this independence has been jealously guarded and supported by the judiciary. Adoption of these articles would therefore violate the principles of independence and separation of powers between the executive and the judiciary.

22. Rule 11 is framed in terms that mandates the assistance of a lawyer in criminal proceedings entailing the deprivation of freedom. It excludes the possibility of an accused choosing not to be represented by a lawyer. An accused in common-law systems is given a right to be represented by counsel but cannot be forced to employ one. Furthermore, giving the accused the right to a lawyer does not necessarily entitle that person to counsel of choice, as provided in rule 19 (3), because the latter would impose an unacceptable burden in the legal aid system in many of countries which provide for a system of legal aid clinics.

23. The concept of preventive detention referred to in rule 20 is not necessarily the same in Canada. In Canada, a person must be charged with an offence before detention following an arrest can be extended beyond the maximum period of 24 hours. Except where there is a likelihood of committing further offences if released, or where it is necessary to ensure attendance in court, an accused has a right to be released on bail. Pretrial detention in Canada is not explicitly related to the likely punishment which varies within the permissible range of sentence provided in the penal code. Within this range, the court has a discretion on the length of the sentence it can impose.

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*Reply, in original English, received on 23 February 1995.

24. Rule 27 is inconsistent with the adversary system. While the accused has a right to have disclosed to him or her all material evidence which tends to negate his or her criminal liability, the parties (prosecution and defence) have the right to decide what evidence to introduce at the trial.

25. Expert witnesses under the adversary system are generally called by the parties in the trial (not the judge), and cannot be classed as necessarily impartial and independent. Rule 30 is thus inconsistent with the common-law adversarial system.

26. Rules 44 and 45 are premature and anticipate the creation of a permanent international criminal court by the General Assembly.

27. As noted in Economic and Social Council resolution 1994/17 of 25 July 1994, it has been suggested that the introduction of oral criminal procedure would make it possible to replace the investigative and inquisitorial procedure; nevertheless, there is no ideal model of how an adversarial process may operate. It would be more productive to emphasize the implementation of existing instruments where there is international consensus, despite the differences of legal systems in the world. Those countries which wish to change their criminal justice procedures to one of an adversarial system might find it more profitable to seek international cooperation and assistance with a number of States that utilize an adversarial legal system, rather than attempt to develop universal statements which do not accommodate the differences of the legal systems of the world.

F. Colombia*

28. The principles set out in rule 1 (2) do not constitute common minimum rules whose content is such that they can be applicable to prosecutorial, inquisitorial and mixed procedural systems. Colombia considers it necessary to formulate a principle that allows for the differences between these systems.

29. Rule 4 (2) distorts the principle of appeal, whereby any party to a suit is entitled to challenge the decisions of the judicial authority concerned. In the exercise of this right, decisions are reviewed by higher courts; this process being without prejudice to the continuation of the proceedings presided over by the officer who pronounced the lower-court decision. The wording as proposed would mean that, whenever a decision is overturned by a higher court, the lower court would not be able to continue to try the case, a fact that would constitute a clear element of delay in proceedings and obvious congestion of the judicial process.

30. Rule 4 (3) disregards differences between legal regimes and thus the possibility that the respective juridical systems may establish courts having special jurisdiction. The requirement stipulated here is unacceptable to Colombia. Special jurisdictions have to be recognized in all countries' constitutional charters, with which their respective national legislation must comply.

31. As regards rule 4 (4), Colombian legislation does not distinguish between serious and minor offences, and the formulation of a rule that assumes the recognition of such a classification in national legislation is unacceptable. Furthermore, the design of the judicial structure of a hierarchical legal system makes it impossible to accept the requirement that competence to hear certain offences should be assigned to courts composed of several members.

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*Reply, in original Spanish, received on 13 January 1995.

32. As regards rule 7, Colombia considers that the proposed requirement that every judicial decision must be preceded by a hearing unjustifiably limits the State's scope in designing a policy of justice administration, since its wording is both restrictive and specific in regard to the possibility of exercising the right of denial and applying the principle of public trial. A rule such as that proposed would not be applicable to some legal systems where the written form is allowed for criminal proceedings.

33. As regards rule 9 (1), a stipulation to the effect that an accused may not be "induced to confess by means of ... reward or any other similar device" is unacceptable. Under some criminal justice systems, procedural inducements offered to persons who in one way or another cooperate with the justice authorities have proved to be an effective and extremely useful mechanism for the efficacious administration of justice.

34. Rule 9 (2) should be deleted. Since the present set of rules cannot refer to any one particular criminal justice system but must be geared to the application of penal law encompassing a large number of legal systems, it is not considered appropriate to specify the type of sanction to be imposed on the transgressor.

35. As regards rule 14 (2), in various countries, the principle referred to here is subject to limitations, such as secrecy regarding the identity of the judge or witnesses. It is important to take account of the need to safeguard the life and person of anyone who is under serious threat by reason of his dispensing justice in a lawsuit, or owing to his cooperation as a witness in shedding light on offences that are under investigation by the criminal justice authorities.

36. As regards rule 18, Colombia believes that this entire point cannot be regarded as a minimum rule of criminal law. Its content is far from that of a principle for universal application. In rule 19 (1), the expression "justified suspicions" should be replaced by "strong circumstantial evidence".

37. Colombia does not accept the principle contained in rule 20. Preventive detention may not be restricted to cases where there is a proven specific risk of escape by the defendant or of the destruction, disappearance or tampering with evidence, but to ensuring greater security concerning criminal responsibility. The general principle in rule 24 should recognize the admissibility of the inclusion, by individual States, of exceptions under their domestic laws.

38. Concerning the section on oral proceedings, its scope is confined to the principles governing the administration of justice within a prosecutorial procedural system, and for this reason those countries whose judicial structure is different would find no justification for accepting the requirements that this section lays down. On this basis, the section in question could be incorporated in the section entitled "suggestions for States".

39. The last sentence of rule 37 should be deleted. It should be borne in mind that, once a judicial ruling has become enforceable following the exhaustion of the admissible channels of appeal against it, no further challenge on the same facts and against the same ruling is permissible. If any such further challenge were possible, it would violate the principle of finality of judicial acts, which clearly would be inadvisable.

40. Concerning rules 44 and 45, Colombia is of the opinion that the draft minimum rules should not be concerned with the establishment of international courts, either to replace or to guide States in this sovereign function, or to serve as a channel for the imposition of obligations of other kinds, some retrospective in nature, which cannot be qualified as mere suggestions. Colombia doubts whether an issue such as the establishment of international courts should be discussed within this framework, which

is separate from the work of the International Law Commission and the Legal Committee of the General Assembly.

G. Cuba*

41. Cuba feels that more time should be spent preparing the rules, provided that this is the wish of the majority of countries.

42. Cuba does not see the need to establish an international court to protect the rights proclaimed in the minimum rules (rule 45). On the contrary, Cuba thinks that the wording should be the subject of more thorough study.

H. Cyprus**

43. The Government of the Republic of Cyprus agrees with and supports the preparation and adoption of United Nations minimum rules in the field covered by the draft minimum rules prepared by the expert commission.

I. Denmark***

44. In principle, the Danish authorities would favour that such rules be developed. The adoption of minimum rules may contribute to an enhancement of justice in connection with investigations into criminal offences and criminal proceedings.

45. The Danish authorities have not yet taken a final position on the proposed draft. However, at this stage the Danish authorities would like to state that the proposed minimum rules seem quite detailed. In future work, it might be more fruitful to aim at developing some general principles.

J. Ecuador****

46. The legislation and practice of Ecuador, in general, satisfies the requirements of the draft standards. Constitutionally, Ecuador has adopted the liberal model with the separation of powers designed to limit and balance power between the legislature, the executive and the judiciary. There is no militarization of justice in Ecuador, nor shortened forms of procedure.

47. As regards rule 4, the judicial office must be exercised without the slightest degree of suspicion or doubt as to the impartiality and independence of judges and magistrates. Multiperson courts are competent within the respective territorial district to hear the trial itself and pass judgement in all criminal cases which come before them, irrespective of the penalty prescribed for the offence concerned, except for cases of jurisdiction recognized by law and observing the provisions of the constitution. Misdemeanours, known in Ecuador as minor offences, are heard and decided by the so-called police judges, political procurators, national police and police governors.

48. With regard to rule 13, in Ecuador, the counsel for the defence is fully entitled to take part in the investigation stage and the jurisdictional stages of the penal process. Both in the pretrial proceedings and in the trial itself he or she may request evidence of all kinds to demonstrate the client's innocence. In Ecuador there is no right of appeal against a refusal to consider evidence, in other words, against the

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*Reply, in original Spanish, received on 3 December 1994.
**Reply, in original English, received on 31 March 1995.
***Reply, in original English, received on 19 January 1995.
****Reply, in original Spanish, received on 19 January 1995.

rejection of a judicial measure, as appeals in criminal matters are only allowed in cases expressly indicated in the Code of Penal Procedure.

49. As regards rule 18, neither the public prosecutor nor the national police are competent to order remand and preventive detention, the reason being that in Ecuador, the pretrial investigative stage is not the responsibility of the public prosecutor but of the so-called judicial police, which submits a report on its investigations to the criminal court judge so that the latter can draw up an indictment for the so-called officially investigable offences.

50. As regards rule 22, there are no criminal psychiatric hospitals in Ecuador. In such cases the mentally disturbed are in the hands of the psychiatrists. If the act has been committed by a person suffering from mental illness, and the judge in charge of the case considers that person would become insane unless he was admitted to a psychiatric hospital, he may not be released without the consent of the Procurator General's Office and a satisfactory report by two doctors appointed by the judge and attesting the complete restoration of the mental faculties of the person concerned.

51. As regards rule 37, in Ecuador there are no preliminary judicial proceedings. All precautionary measures, both real and personal, are arranged by the officiating judge in the pretrial proceedings. Where abuses of personal freedoms are concerned, an application of *habeas corpus* and *amparo* proceedings may be brought before the senior examining judge.

K. Finland*

52. The Government of Finland is in principle in favour of the development of minimum rules for the administration of criminal justice. However, such minimum rules would probably be of minor importance to those countries that are parties to the European Convention for the Protection of Human Rights and Fundamental Freedoms, as the proposed rules would cover more or less the same area as the provisions concerning criminal procedure in the said Convention. Those provisions are consistent with a significant number of judgements given by the European Court of Human Rights, and the Convention includes an effective system of legal protection for individuals, whereas the proposed minimum rules would not be legally binding.

53. Many of the proposed rules seem to be based on the common-law system which is alien to the legal system of Finland. This applies especially to prohibitions concerning the production and evaluation of evidence. From the point of view of Finland, the following rules, *inter alia*, seem to be especially problematic:

(a) As regards rule 2 (2), in Finland the police does not in terms of function come under the public prosecutor's office or the judiciary and courts, neither can such a change in the organization of authorities be foreseen in the near future;

(b) As regards rule 11 (2), according to Finnish law a defendant cannot be forced to have a legal counsel against his or her own will, while he or she has an unlimited right to have recourse to a legal counsel, if he or she so wishes;

(c) As regards rules 20 (1) and (2), according to Finnish law, a remand for trial (preventive detention) does not require that the sanction that may predictably be imposed is deprivation of freedom

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*Reply, in original English, received on 29 December 1994.

for more than two years. Finnish legislation does not establish maximum limits for the duration of remand for trial. Maximum limits for the duration of remand for trial are not required by the European Convention for the Protection of Human Rights and Fundamental Freedoms;

(d) As regards rule 25 (1), the proposed absolute rule concerning the right to oral proceedings is not acceptable when it comes to appellate instances. An absolute right to oral proceedings before higher courts does not correspond to the practice of the European Court of Human Rights.

54. With reference to the above mentioned differences between the Finnish legal system and the proposed minimum rules, Finland would hardly be ready to accept and adopt the proposed rules as they now stand. The Finnish legal system in respect of criminal procedures is already in line with the requirements of the European Convention for the Protection of Human Rights and Fundamental Freedoms, and there is no need at the moment to amend Finnish legislation. Despite these reservations, it is the view of the Government of Finland that there is merit in developing minimum rules for the administration of criminal justice, and Finland is ready to discuss this matter with a view to finding alternative formulations.

L. Germany*

55. The Government of Germany in principle would welcome the elaboration of standard minimum rules for the administration of criminal justice aiming *inter alia* at the introduction of obligatory oral proceedings which would contribute to reducing the duration of trials as well as of imprisonments on remand.

56. In the process of elaborating possible minimum standard rules, due consideration should also be given to human rights aspects. The Government of Germany would regard it as necessary at least to maintain the status quo recognized in other human rights standards and already obligatory in the criminal justice administration in a number of countries.

M. Ghana**

57. It is desirable that the United Nations minimum rules in the field covered by the draft be prepared and adopted for consideration by the Commission on Crime Prevention and Criminal Justice at its fourth session.

58. However, concerning rule 2 (2), the function of investigation in criminal proceedings should not be under the judiciary and the courts. The meaning of rule 4 (1) is not clear, since in Ghana prosecutions are conducted by public prosecutors and not by judges. Rule 4 (2) should be without prejudice to the right of review, which in Ghana may be exercised by the Supreme Court under article 133 of the constitution. Rule 31 (2) should not be so in all cases in Ghana. The burden of establishing the guilt of the accused person beyond reasonable doubt rests on the prosecution.

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*Reply, in original English, received on 27 March 1995.

**Reply, in original English, received on 27 February 1995.

N. Japan*

59. The main purpose of setting United Nations standards and norms is to provide guidelines on developing criminal justice systems in Member States, especially in developing countries and countries in transition. Although United Nations standards and norms have been developed in almost all the fields of criminal justice with considerable cost, we must admit that these standards and norms have not been fully used and applied in each country.

60. We think it necessary to study the reason why existing standards have not been fully used and applied in order to promote their full use and application. In accordance with Economic and Social Council resolution 1994/18 of 25 July 1994, the Secretary-General is currently carrying out surveys on the use and application of standards and norms in four fields. Based on the results of these surveys, we have to identify and analyse the obstacles to the use and application of existing standards and norms and, if necessary, to review them. Only after conducting such analysis and, if necessary, amendments to these standards and norms, the United Nations could consider embarking on new standard setting.

61. Japan has several comments on the draft rules. First, the criminal justice system in each country has its own features which have developed in conformity with the sociocultural tradition and the actual situation of crimes. Therefore, if the rules were too specific, it would probably be impossible to use and apply the rules to many countries.

62. Second, placing too much emphasis on the affirmation of rights of the accused, prisoners etc., despite the necessity to prevent crimes and to maintain a peaceful society, would be ineffective, risking to hamper the public sentiment of justice. We also fear that it would lead to the distrust, on the part of the public, of the United Nations international instruments. Thus, standards and norms in the field of criminal justice systems should be "minimum rules" in the context of providing the basic principles to be observed with regard to rights in criminal justice procedure. And then, it should be determined by each country how to realize such basic principles in practice, particularly, how to keep balance between the affirmation of rights and the necessity of maintaining social order, taking into account such elements as the actual situation of crimes and legal systems of criminal justice, including protection of victims.

63. Considering the above-mentioned points, the draft rules are too specific and detailed, without adequate consideration of different legal systems. Moreover, the rules seem to place one-sided emphasis on the aspect of affirmation of rights. Besides, elaboration of these new rules could be a needless duplication of past United Nations efforts vis-à-vis existing standards and norms. In conclusion, we regret to state that the Japanese Government is not in a position to support the elaboration of the draft rules.

O. Jordan**

64. The draft includes high principles and ideals in harmony with international covenants and divine laws which call for human dignity and respect for human nature at all times, even for an accused person or a person summoned before justice.

65. As regards rule 1 (2), the functions of indictment and prosecution are not incumbent upon private persons within Jordanian law. Jordan does not see any effectiveness in such a principle, due to the fact

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*Reply, in original English, received on 10 March 1995.

**Reply, in English and Arabic, received on 26 January 1995.

that where such functions were incumbent upon the State alone, security and stability would be further guaranteed.

66. Contrary to rule 22 (2) of the proposed draft, according to the Jordanian legal system, the family or the relatives of the defendant may neither agree nor disagree to the internment of the mentally deranged defendant in prison or another place.

67. Concerning the section on oral proceedings, the principles contained in the proposed draft are applicable in Jordan with regard to the public character of the hearings, except in certain cases where hearings may be closed; the submission of evidence directly to the court; and the hearing of witnesses before the court, except in certain specified cases where delivering of statements by witness before the public prosecutor may be sufficient, in the event of death, disability or necessary travel. The difference between the provisions of Jordanian law and the proposed draft is that in Jordan, questioning of witnesses may only be undertaken by the public prosecutor and the court, contrary to rule 29 (3) of the proposed draft.

68. Concerning the section on suggestions for States, we support the idea of possible access to international courts for citizens in the various countries, and the establishment of international courts to ensure the principles proclaimed in the draft and to translate them into reality, through concrete applications. However, we think that such an action might be in collision with the sovereignty of States and their will, which requires that their nationals should not have the possibility of bypassing the barriers of sovereignty in order to have access to international judicial bodies.

P. Kazakhstan*

69. It seems that the document should include such provisions as the following:

(a) The defender should have appointments with the accused without any limitations of their quantity and duration from the moment of admittance to take part at a case;

(b) Legal representatives, besides defenders, should be admitted to the cases of under-age children, as well as persons who due to their physical or mental defects are not able to carry out their right to defence without any assistance;

(c) The limitation of the secrecy of correspondence, telephone talks, post, telegraphs and other information, as well as of penetration into dwellings against the will of persons living there, may not take place at the prosecutor's discretion but only according to court decisions;

(d) The accused is not obliged to prove his or her innocence. Doubts as to a person's guilt are interpreted in favour of the accused;

(e) Evidence received through violating the law is to be deemed invalid and cannot be assumed as a basis of incrimination.

70. The adoption of an international legal instrument by the United Nations and its signature by Kazakhstan undoubtedly would promote the strengthening of human rights in criminal legal proceedings.

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*Reply, in original English, received on 17 January 1995.

Q. Kuwait*

71. Rule 12 (2) prohibits the examination of the defendant before he or she has been advised by counsel. Kuwait observes that this general and absolute prohibition would delay examination in the event of counsel failing to appear, consequently delaying the justice which the draft seeks to expedite.

72. Rule 20 (2) is inconsistent with considerations and justifications of preventive detention, which have no relation to the penalty established for the offence allegedly committed, but involve other considerations relating to the course of the investigation, the consequences of releasing the defendant, or the prevention of absconding by the defendant.

73. Rule 22 (2), as reflected by the agreement of the defendant to be interned, is contradictory to the nature of the defendant's rights, which are inalienable and may not be relinquished, and consequently are not subject to agreement or objection. Furthermore, cases of preventive detention are governed by the interests of the investigation, its course and the circumstances surrounding it, regardless of the agreement or objection of the defendant.

74. The text of rule 26 is self-contradictory. It is observed that the text, after having provided for the prohibition of the institution of oral proceedings against an absent defendant, in a general and absolute manner, made this prohibition specific to serious offences, in addition to not identifying crimes characterized as being serious. Furthermore, the general purport of prevention of this paragraph is that justice may be delayed by an action on the part of the defendant himself, which is rejected by general rules.

75. Section (I) contradicts customary practice in international human rights courts. The proposed international judiciary should not be an overseer of the internal courts of States or as a supreme court above such courts. Its competence should be limited to ascertaining whether human rights have been exposed to violation by one State or another. This is evident from the rulings of the European Court of Human Rights, which is a supervisory authority, established by virtue of the European Convention on Human Rights. Furthermore, recourse by individuals to international courts is still an object of disagreement. The prevailing thinking, up to the present time, is that individuals do not enjoy an international personality, even though international law addresses individuals in the domain of human rights.

R. Luxembourg**

76. The differences among Member States of the United Nations, their cultural and philosophical peculiarities are necessarily reflected in the penal procedure and the guarantees accorded to individuals which are subject to such procedure. While the establishment of minimum rules related to the administration of criminal justice within Member States could have a stimulating effect on the development of these procedures and guarantees, the juridical rules, conceived in a particular political, cultural and economic sphere, cannot be transferred as such to criminal justice systems existing in other States which have a different approach.

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*Reply, in original Arabic, received on 6 April 1995.

**Reply, in original French, received on 19 April 1995.

S. Namibia*

77. The provisions are drafted in such a way that in most cases they have little or no relevance in common-law, as opposed to civil-law, jurisdictions. An attempt should be made to use terms that can have practical meaning for common-law as well as civil-law jurisdictions.

78. Comments on the draft minimum rules are given below.

79. As regards rule 4, it is not the practice in almost all common-law jurisdictions to leave prosecutions to "independent judges". In any case, not all judicial officers who sit on the bench in most countries are referred to as judges. The term excludes magistrates who are the kingpins in criminal proceedings in most common-law countries, e.g. the Commonwealth countries. As regards rule 4 (4), the word "serious" is not defined, and in some central and southern African countries the theft of a single pig or goat, for instance, is a very serious offence for which the convicted person may be imprisoned for between 7 and 15 years, without the option of a fine. Rule 4 (4) should therefore be deleted.

80. With regard to rule 11, the State can only provide legal aid in both criminal and civil proceedings within the means of the State. That is how State-sponsored legal aid is granted in many countries, including Namibia. The last sentence under rule 11 (1), and rule 11 (2) should be deleted. They will not have practical meaning for poor countries. These two subrules will put undue financial strain on poor countries, and appear to glorify crime and criminal elements.

81. As regards rule 18, the provisions of rule 18 (3) are not in accord with acceptable practice in international law. Measures that are taken during declared states of emergency should be permissible under the constitution or any other written law. In view of the very purpose of emergency measures, it may be prejudicial to national security or public order if measures can only be taken with the approval of the courts. The whole purpose of such measures would be defeated thereby. Provision should rather be made which allows an aggrieved person to seek redress in the courts if he or she alleges a violation of his or her human rights and fundamental freedoms as a result of any emergency measures.

82. As regards rule 20, the idea of preventive detention should be totally deleted from rules which relate specifically to criminal law and crimes. Preventive detention, or administrative detention, as it is called in some countries, has purpose in a national security or public order situation not in a criminal situation. In any case, it is not a form of punishment, and therefore should not be used at all in criminal proceedings. In fact under international human rights law, preventive detention may only be used during declared states of emergency or when the country is at war. Where a mentally sick person is involved, such a person can only be detained in the execution of a court order.

83. Rule 44 is rather premature. Access of nationals to an international criminal court can only be justified if the State in question is a State party to a treaty establishing such an international criminal court, otherwise any such an arrangement will be illegal or unconstitutional.

T. New Zealand**

84. The principles and practice of New Zealand are in conformity with the draft rules. However, there are several unclear clauses in the draft, which make New Zealand unable to comment on them. With

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*Reply, in original English, received on 27 February 1995.

**Reply, in original English, received on 11 April 1995.

regard to rule 7, it is unclear what "previous hearing" means. It may be merely a reference to the natural justice rule of having a right to be heard.

85. New Zealand interprets "preventive detention" in section (E) as meaning remand in custody. There is a presumption that a defendant will be released on reasonable terms unless there is just cause for continued detention.

86. With regard to rule 43, the first and second parts of this sentence do not seem connected. New Zealand does not have a fund for reparation, but victims have access to free medical treatment and rehabilitation under existing legislation. It should be noted that the court may order that the offender pay reparation to the victim of an offence for emotional harm and property damage.

87. New Zealand is unable to comment on the proposal in rule 45, as the structure and purpose of such an international court is unknown. This proposal raises questions in respect of jurisdiction and differences in legal systems.

U. Oman*

88. The wording of rule 1 (2) is imprecise and should be amended so as to clarify its real and actual meaning without ambiguity or vagueness. Rule 1 (3) should expressly specify the authority to be entrusted with the function of indictment and the authority which has the right of control over it.

89. As regards rule 4, the basis for differentiation between serious offences and minor offences or misdemeanours is not clear.

90. Rule 11 (1) should be limited to the right of the accused to choose freely his or her counsel during the trial without any need to provide for that after conviction. As regards rule 13, the participation of a counsel in investigations is not logically acceptable, and may be contrary to the interests of the adversaries and to the purpose of the presence of the defence. The counsel should have only the right to attend investigations and not to take part in them. The text should be amended so as to give the defence the right to complain about the decisions of the investigator during investigations and not to appeal them.

91. As regards rule 22 (2), imprisonment is the function of the investigation and judicial authorities, as the circumstances of the case require, and there is no need to ask for the opinion of the accused or for the permission of his or her family. The right contained in rule 23 (2) is limited to the investigation authorities according to their discretion, without any need for the consent of the person concerned or the judicial authority for such intervention.

92. As regards rules 44 and 45, States have confidence in their national judiciary, as the judicial authority is one of the fundamental branches of authority on which the State is based. No foreign judiciary may have authority over a national judiciary, since this concerns the notion of sovereignty. Therefore, these two rules should be deleted.

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*Reply, in original English and Arabic, received on 9 February 1995.

V. Panama*

93. Panama supports the content of the draft minimum rules, but notes that, in paragraphs concerning the rights of the defendant, coercive measures and victims, other texts already adopted by the United Nations having a close connection with these subjects are not mentioned. It would seem to us desirable to take advantage of the texts that set forth minimum rules for the administration of criminal justice and to confirm, either in its preambular part or in the operative part, the undertakings assumed by the various Member States in regard to improving their systems of justice by incorporating the guidelines and principles already adopted at earlier international meetings and world congresses.

94. Panama believes that a set of basic instruments will exist which will give Member States an up-to-date, scientific system of rules, sufficiently broad for them to adapt to their internal law, and in this way, before the present century ends, will allow the most obvious deficiencies in criminal justice and correctional systems to be remedied.

W. Peru**

95. Peru agrees in general with the text of the draft minimum rules, and believes that their adoption would be one of the greatest advances in the efforts to achieve efficient administration of justice in States. Concerning the preamble to the draft, it would seem to be desirable to place greater emphasis on the standardization of legislation on criminal procedure and penal establishments in Member States.

96. In section (E) entitled "coercive measures", it would seem desirable to include an express rule to limit the application of coercive measures so as to avoid the creation of situations in which the defendant is prevented from defending himself or herself. It is necessary to include, as a procedural principle to be borne in mind in connection with the application of coercive measures, the "principle of security of the person as a social being", also called the "principle of humanity", which in turn derives from the constitutional principle, widely recognized in comparative law, of the dignity of the human person. This principle is important in the administration of justice. This suggestion could be included in rule 17.

97. Rule 32 should be moved to the section entitled "general principles of procedure", in as much as it is a general guiding principle in all criminal procedure.

98. In section (I) entitled "Suggestions for States", it would be desirable to recommend that States should organize ongoing training programmes for officials responsible for the administration of justice.

X. Syrian Arab Republic***

99. Some of the provisions under the title "general principles of procedure" are not in harmony with the law in force in the Syrian Arab Republic and the principles on which it is based, and do not take the various legal systems in the world into consideration. They do not take into account the cases where the function of indictment is incumbent upon judges.

100. With regard to section (c), "Rights of the defendant", rule 10 is not in harmony with the laws in force and the established legal interpretation. This principle has been addressed by legal interpretation

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*Reply, in original Spanish, received on 27 January 1995.

**Reply, in original Spanish, received on 3 January 1995.

***Reply, in original Arabic, received on 1 March 1995.

which rules that the invalidation of procedures to obtain evidence does not invalidate the evidence or the possibility of accepting it, because these are two separate questions, and because the crime affects the society, and the error committed in obtaining the evidence should not adversely affect the interests of the society.

101. With reference to "coercive measures", the purposes of preventive detention include also safeguarding the accused or calming down public opinion in the case of a crime which shocks the conscience of the general public. Restriction of liberty may be ordered by the investigating authority in the legal systems where the function of investigation, in flagrant crimes, is incumbent upon an investigating magistrate or a prosecuting judge. Making the measures of the public prosecutor subject to judicial authority is contrary to the principles in effect in the country. It does not take into account that the public prosecutor is a judge, and that the measures adopted by him can be stopped subject to consideration by a court or investigating magistrate.

102. Limiting the duration of detention to 72 hours is not in compliance with the law in force. We are not of the opinion that preventive detention should have an established maximum duration, and that it should be limited to offences for which the punishment exceeds two years. We do not, as well, support limiting the duration of preventive detention in a mental hospital for a person showing signs of insanity, and do not support making internment dependent on the agreement of the accused.

103. Concerning section (I) entitled "Suggestions for States", we do not support reference to international courts at a time when such courts have not been established and their jurisdiction has not been clarified and may infringe upon the jurisdiction of law courts.

Y. Switzerland*

104. Rule 1 (2) is not clear. As regards 1 (3), it would follow from rule 1 (1) that the function of indictment is an exclusive prerogative of the States. Within the meaning of the International Covenant on Civil and Political Rights, the function of indictment is the State activity exercised for purposes of bringing to justice the party who has committed a punishable act; it should not be confused with the power to trigger public action or support the charge, which under certain conditions may be considered as lying within the field of private initiative.

105. Concerning rule 7, respect for the right to be heard is fundamental in criminal procedure. However, one may not place on the same footing personal rights, which are of a constitutional nature, and procedural rights unless the content of the latter is stated. As regards 8 (2), the right to an interpreter ensues logically from the right to be heard. However, this is not a matter of assistance to the defendant on the same basis as the assistance of a lawyer, but rather an aid to justice intended to permit communication between the various participants in the proceedings.

106. Rule 10 is too rigid. The statements of the suspect are not regarded as evidence, in the strict sense, in all States. The real problem is that of evidence derived from statements illegally obtained. As regards 11 (1), the right of the defendant to undertake his or her own defence should not be absolute. Rule 11 (2) is too strict. It is hard to imagine compulsory defence whenever a person is liable only to a short term of deprivation of freedom, particularly if he or she is only indirectly liable thereto.

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*Reply, in original French, received on 17 January 1995.

107. The requirement of rule 19 (3) is excessive, since the period of detention is very short; furthermore, it is not democratic (or rather) social, since only well-to-do persons are in a position to retain the services of a lawyer of their choice at such short notice. Notification of the family during the period of detention should be subject to properly justified exceptions in the light of the risk of collusion.

108. As regards rule 20 (1), the risk of recidivism may in exceptional cases constitute grounds for detention. Rule 22 (2) does not lie within the field of criminal procedure. The drafting of rule 23 (1) is not good. Bodily intervention cannot be prohibited in principle. A distinction must be made between intervention in respect of the defendant, the victim and the third party. Rule 24 apparently does not apply to the detention premises.

109. As regards rule 45, it does not appear to us advisable to provide for a number of international courts all having cognizance of the same matter at the same time. That would be a source of legal insecurity.

Z. Turkey*

110. The proposed minimum rules contain the main principles of the international conventions and instruments relating to human rights and fundamental freedoms. The formulation of these principles in the form of specific rules will certainly contribute to their effective application, giving priority to the concept of the international rule of law, whilst at the same time serving as guidance for States, in particular those that have not yet adhered to the above-mentioned conventions.

111. On the other hand, Turkey would like to draw attention to an element aimed at ensuring the objectivity and impartiality of the experts whose decisions can considerably influence the judgement, namely the establishment of grounds in national legislation for non-participation and challenge for the same reasons as for the judges. Therefore, Turkey proposes to add this element to rule 30, under section (F), "Oral proceedings".

AA. United Kingdom of Great Britain and Northern Ireland**

112. Basically, the position of the United Kingdom is that it would be premature for the United Nations to embark on drawing up norms and standards in yet another area (i.e. minimum rules for the administration of criminal justice). Only in 1994, the Commission on Crime Prevention and Criminal Justice agreed to embark on an examination of norms and standards in four fields. This exercise has been started recently by the issuing of questionnaires to Member States by the Crime Prevention and Criminal Justice Branch. The concern of the United Kingdom is that a further initiative at the moment would dilute the quality of this work. And there is also the problem that the draft rules would overlap and potentially conflict with existing norms and standards. The United Kingdom does not think it desirable to prepare United Nations minimum rules in this field at this particular time.

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*Reply, in original English, received on 30 January 1995.

**Reply, in original English, received on 10 January 1995.

II. COMMENTS SUBMITTED BY THE INTERREGIONAL AND REGIONAL INSTITUTES

A. United Nations Interregional Crime and Justice Research Institute*

113. The concern of the United Nations Interregional Crime and Justice Research Institute (UNICRI) is that, in the form of the present draft, many provisions will not be appropriate to all legal systems, making the achievement of a consensus extremely difficult. The document needs considerable further refinement before it is submitted to a body such as the Commission on Crime Prevention and Criminal Justice. At the very least, should it be proceeded with, it should be reviewed by an expert group representing the various legal systems. Some of the major problems raised by the draft rules are indicated below.

114. Rule 1 (1) overlooks the fact that certain systems provide for private prosecution. The principle in rule 2(1) would appear to contradict the one in rule 2 (2) that the police and the officials carrying out the duties of investigation may in terms of function come under the judiciary and courts.

115. Rule 4 (1) would seem to overlook that in many countries findings of fact in criminal matters are left to a jury of lay persons, not judges. The second rule 4 would appear to overlook the case of the trial of serious offences by a single judge and jury. The definition of "qualified courts" is not clear.

116. As regards rule 18 (2), it is not clear which particular fundamental rights of the person and on what ground the police or prosecutors are entitled to infringe. Concerning rule 19 (1), it is not clear whether this rule would apply in relation to minor offences, nor whether it would refer to detention after having been charged or in order to discover whether the suspicions are indeed justified. This appears to offer a blanket right of detention, irrespective of such considerations as whether the suspect might commit another offence or interfere with the evidence.

117. The provisions dealing with the victim could cause difficulties within legal systems where there is no provision, for example, for the victim to have the right to a lawyer.

B. Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders**

118. First of all, the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders would like to stress that, in the field of crime prevention and criminal justice, approximately 30 standards and guidelines have been already adopted by the United Nations in the past. These existing standards already cover almost all aspects of the administration of criminal justice. In our opinion, what is now required for the United Nations to do is not the elaboration of new additional standards, but the promotion of the application of existing standards.

119. The Institute observes that many provisions in the proposed draft might be difficult to be accepted as they now stand by many States. The proposed draft should pay attention to the fact that the criminal justice system of each Member States reflects its own social and cultural backgrounds. The necessary consideration of such social and cultural basis of each country is always outlined in the efforts to

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*Reply, in original English, received on 18 November 1994.

**Reply, in original English, received on 27 February 1995.

promote the application of existing standards. To recognize and to respect diversity among Member States must be one of the most important doctrines under the Charter of the United Nations.

C. European Institute for Crime Prevention and Control, affiliated with the United Nations*

120. Administration of criminal justice is a wide domain with many different fields of interest. The draft covers a whole range of criminal justice professions and procedure at several levels and stages. It is an overly ambitious effort to try to create one single overall document covering this area which would be applicable in all Member States with different legal and socio-economic cultures. In addition, most of the questions dealt with in the present draft are already independently subject to more detailed standards and norms. It seems unnecessary to devote resources to composing any new umbrella rules which would only generally repeat some of the existing principles in the field.

121. Instead, Member States should be urged to give attention to the implementation of Council resolution 1994/18 on United Nations standards and norms in crime prevention and criminal justice, and to the further application and development of already existing instruments.

D. Arab Security Studies and Training Centre,** associated with the United Nations

122. The general principles of procedure should be global and not limited to one region or another. The draft missed some basic principles, especially "equality between parties" and "presumption of innocence", which must be mentioned as basic concepts.

123. Concerning the principles governing legal proceedings, collaboration between authorities is a democratic principle which now needs absolute reaffirmation. As regards rule 6, even if it is clear in the Anglo-Saxon system that the process begins with the arrest, it is difficult to say so in the Latin system.

124. As regards rule 14 (1), the problem is not before the court but before the investigation authority, especially in an inquisitorial system. The test of necessity must be applied in cases of negating recognizance as in the case of arrest and preventive detention.

125. Rule 44 suggests international courts to protect all sorts of rights, which is a controversial issue. ASSTC suggests as a step-by-step policy the establishment of regional international courts such as the European Court of Human Rights. Adding also "victims rights" after "fundamental rights of the citizen" will be more decisive in the protection approach. The same suggestion may be cited for rule 45, so that "international court" could be replaced by "regional criminal court" within the framework of an interregional organization such as the Arab League.

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*Reply, in original English, received on 15 December 1995.

**Reply, in original English, received on 5 December 1994.

E. International Centre for Criminal Law Reform and Criminal Justice Policy,* associated with the United Nations

126. The first concern of the International Centre for Criminal Law Reform and Criminal Justice Policy is placed on the general desirability of further promulgation of United Nations minimum rules in the area of crime prevention and criminal justice at a time when more productive efforts could and should be spent on the implementation of existing ones. The Centre does not discern a great urgency in the elaboration of new standards at this time.

127. If the draft minimum rules were adopted with minor variations, questions would be raised whether most developed countries could meet these standards, and whether the distance between the present state of affairs of developed countries and the standards of the draft minimum rules presents a desirable advancement. The general perception of the Centre is probably negative to both questions. If this is the perception regarding developed countries, developing countries may find any promulgation and implementation efforts regarding the draft minimum rules to be probably even less desirable.

128. As regards the apparent underlying preference for the adversarial approach, the Centre is concerned that the adversarial system is touted as the global solution to the violation of rights. It might be inappropriate to many countries and to some Aboriginal groups within various countries, including Canada.

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COOPERATION AND COORDINATION OF ACTIVITIES WITH OTHER UNITED NATIONS BODIES AND OTHER ENTITIES

Cooperation and coordination of activities in crime prevention and criminal justice, including activities of the United Nations International Drug Control Programme

Report of the Secretary-General

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*E/CN.15/1995/1.

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INTRODUCTION

1. The present report provides an overview of cooperation and coordination of activities with other United Nations entities, including the United Nations International Drug Control Programme, and intergovernmental, non-governmental and other organizations for the period from November 1993 to March 1995. It updates the previous report of the Secretary-General on the subject (E/CN.15/1994/9), which was submitted to the Commission on Crime Prevention and Criminal Justice at its third session.

2. The important role of cooperation with other United Nations entities and intergovernmental, non-governmental and other organizations is also highlighted in a number of other reports before the Commission at its fourth session.* It was also dealt with in the working paper prepared by the Secretariat (A/CONF.169/4) on international cooperation and practical technical assistance for strengthening the rule of law: promoting the United Nations crime prevention and criminal justice programme, which was submitted to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Cairo from 29 April to 8 May 1995.

3. The present report does not take into account all activities undertaken in cooperation with each organization. It highlights the role of cooperation and coordination in all areas of work of the programme.

I. COOPERATION AND COORDINATION OF ACTIVITIES

4. As a result of the restructuring of the United Nations crime prevention and criminal justice programme, pursuant to General Assembly resolution 46/152 and Economic and Social Council resolution 1992/22, there has been greater emphasis in the programme on providing practical technical assistance. Because of the scanty resources allocated to the technical assistance activities of the programme, cooperation with other entities became even more important than in previous years, particularly in the light of the call for making the programme more operational.

5. Thanks to the active support of other United Nations entities, as well as contributions from intergovernmental and non-governmental organizations and other institutions, various joint technical cooperation activities have been organized within the framework of the programme. Those activities have involved the assessment of needs, the preparation and implementation of projects, the organization of training seminars and the development of manuals. The scope of the joint activities has expanded and a number of institutions have extended their cooperation for the first time.

6. The contribution of other United Nations entities and intergovernmental and non-governmental organizations has been invaluable. It has been possible to tackle complex issues from the angle of each contributing partner (e.g. criminal justice strategies, including strategies against organized crime and illicit drug trafficking; juvenile justice and social policies for juveniles; and law enforcement and human rights). This has proved to be fruitful at all levels -needs assessment, project planning and implementation.

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*See the report of the Secretary-General on technical cooperation and strengthening of the United Nations crime prevention and criminal justice programme (E/CN.15/1995/6); the report of the Secretary-General on United Nations standards and norms in the field of crime prevention and criminal justice (E/CN.15/1995/7); and the report of the Secretary-General on activities of the United Nations Interregional Crime and Research Institute and other institutes, including the African Institute for the Prevention of Crime and the Treatment of Offenders (E/CN.15/1995/9).

7. When coordinating or implementing activities within the United Nations system, the programme was on many occasions able to make use of existing United Nations resources and infrastructure, such as those of the United Nations International Drug Control Programme (UNDCP) and the United Nations Development Programme (UNDP), in carrying out its missions and projects. In view of the encouraging results of the joint initiatives and given the limited resources of the programme, cooperation with other entities will continue to remain of great importance in responding to mandates and requests from Member States.

A. Cooperation and coordination with relevant entities of the Secretariat and other United Nations entities

*1. United Nations International Drug Control Programme**

8. The Commission on Crime Prevention and Criminal Justice, in its resolution 3/5, on coordination and cooperation between the Crime Prevention and Criminal Justice Branch of the Secretariat and the United Nations International Drug Control Programme, and the Commission on Narcotic Drugs, in its resolution 1 (XXXVII) on the same subject, decided to take steps towards enhancing active cooperation between the two bodies in order to increase the efficiency and effectiveness of United Nations activities in areas of mutual concern and interest. Each Commission welcomed the activities jointly undertaken by UNDCP and the Branch, as described in a note by the Secretariat (E/CN.7/1994/7), and recommended that their coordinated activities be sustained and expanded.**

9. Each Commission welcomed with appreciation the two conferences that were hosted by the Government of Italy in 1994, namely the International Conference on Preventing and Controlling Money-Laundering and the Use of the Proceeds of Crime: a Global Approach, held at Courmayeur, Italy, from 18 to 20 June 1994, and the World Ministerial Conference on Organized Transnational Crime, held at Naples, Italy, from 21 to 23 November 1994. UNDCP and the Branch were requested, within the framework of their respective mandates and within existing financial resources, to cooperate in activities related to the above-mentioned conferences, as well as those related to the Ninth Congress on the Prevention of Crime and the Treatment of Offenders.

10. Each Commission requested the Secretary-General to ensure continued coordination of the activities of UNDCP and the Branch, with a view to, *inter alia*, considering an increase in their capacity to undertake mutually compatible operational activities in their fields of competence in order to meet the existing and emerging needs of Member States, as resources permitted. UNDCP and the Branch were also requested to report jointly and annually to each Commission on progress achieved in strengthening coordination.

11. The Economic and Social Council, in its resolution 1994/16, on strengthening the United Nations crime prevention and criminal justice programme, requested UNDCP to give favourable consideration

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*The present subsection is based on a report of the Executive Director on strengthening system-wide cooperation and coordination in drug control (E/CN.7/1995/15/Add.2), which was submitted to the Commission on Narcotic Drugs at its thirty-eighth session.

**The General Assembly, in its resolution 49/158, requested the Secretary-General to further strengthen cooperation between the two entities. Furthermore, the Commission on Narcotic Drugs, in its resolution 9 (XXXVIII), on operational measures to ensure and strengthen cooperation between the United Nations International Drug Control Programme and the Crime Prevention and Criminal Justice Branch of the Secretariat, called for the undertaking of joint projects in fields of mutual concern.

to assisting the Branch in the formulation and execution of technical assistance projects in areas of mutual concern.

12. UNDCP has participated in a number of major meetings convened by the Branch, including the regional preparatory meetings for the Ninth Congress, and in the two conferences referred to in paragraph 9 above. At the International Conference on Preventing and Controlling Money-Laundering and the Use of the Proceeds of Crime: a Global Approach, UNDCP presented a paper and circulated model legislation relating to the control of the proceeds of crime.

13. A number of joint operational projects have been undertaken by UNDCP and the Branch. Of particular note was a training seminar on institution-building and improvement of crime control measures for police officers, held at Kiev from 20 February to 3 March 1995. It dealt with fundamental concepts of police work in a democratic society and drug trafficking and was designed to promote cooperation between agencies within the criminal justice system, such as prosecution authorities, courts, corrections and legal services, addressing their role in society with reference to United Nations norms and standards in crime prevention and criminal justice. The seminar was the first phase of a plan of work that will be implemented over a period of 18 months. Further activities are planned on a joint basis, including regional workshops and advisory services on law enforcement cooperation and the development of measures against money-laundering for States in eastern Europe and central Asia. A major joint project is also planned on the prevention and control of organized crime in an Asian country. UNDCP has supported, and will continue to support, those activities with both funding and expertise.

14. UNDCP, with the assistance of the Branch, organized a legal workshop on subregional cooperation against drug trafficking, held at Pretoria in November 1994. In particular, the Branch provided expert assistance on matters relating to corruption, which was addressed at the ministerial level, and practical measures were devised to deal with the problem.

15. The Branch and UNDCP have shared expertise in the areas of extradition and mutual assistance in criminal matters. UNDCP has contributed to preparatory work for the workshop on extradition to be held at the Ninth Congress and will participate in the expert panel at the workshop, especially in respect of the extradition provisions of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988,[1] which will serve as an example of a multilateral extradition treaty. Contributions will also be made by UNDCP to the manuals being prepared by the Branch on the implementation of the Model Treaty on Extradition (General Assembly resolution 45/116, annex) and the Model Treaty on Mutual Assistance in Criminal Matters (General Assembly resolution 45/117, annex). In addition, the Branch has made available to UNDCP its roster of experts for the selection of participants in working groups and of suitable candidates for the provision of funding to attend specialized seminars on those and other matters relating to international cooperation to reduce transnational crime. Such cooperation led UNDCP and the Branch to support the Oxford Conference on Mutual Legal Assistance, held at Oxford, United Kingdom of Great Britain and Northern Ireland, from 5 to 9 September 1994, which was organized by the Commonwealth Secretariat.

16. UNDCP and the Branch have also cooperated on a number of other matters. For example, UNDCP provided input on narcotics-related law in the context of a request for advisory services by an African State for a draft penal code. Information has also been exchanged. For instance, the Branch has provided UNDCP with information on such topics as alternatives to imprisonment and non-custodial measures. The Branch has also participated in a working group on model money-laundering and confiscation legislation for civil law countries, which was convened by UNDCP.

17. The Branch has continued to participate in the work of the Subcommittee on Drug Control of the Administrative Committee on Coordination through, *inter alia*, its contributions to papers prepared by

the Subcommittee for presentation at meetings dealing with drug-related matters, such as the World Summit for Social Development, held at Copenhagen from 6 to 12 March 1995, as well as its involvement in the working group on inter-agency information exchange, which reports to the Subcommittee.

18. A number of meetings have been held by UNDCP and the Branch to discuss approaches to increasing their capacities for cooperation and coordination. To that end, focal points have been established, and a joint committee will regularly review activities of mutual interest, as well as the institutional arrangements necessary to implement them. Areas for ongoing liaison and coordination have been identified, including regular exchanges of information, such as sharing mission information, project summaries, information exchange on major events on a quarterly basis, annual work plans, particularly relating to the development of legislation and projects to promote cross-border cooperation in judicial matters, as well as research papers and other documents. Information contained in the rosters of experts is also being exchanged, and the possibility of establishing a joint database on technical cooperation is being explored.

19. UNDCP and the Branch intend to continue strengthening cooperation and coordination along the lines described above, on a formal and informal basis.*

2. Centre for Human Rights of the Secretariat

20. Collaboration with the Centre for Human Rights of the Secretariat continued to be an important element in the implementation of the technical assistance activities of the United Nations crime prevention and criminal justice programme. A detailed report on cooperation and coordination of activities with the Centre for Human Rights is given in the report of the Secretary-General (E/CN.15/1995/7) on United Nations standards and norms in the field of crime prevention and criminal justice.

21. Cooperation and coordination with the Centre for Human Rights included attendance at sessions of its policy-making bodies; participation in seminars and workshops organized by the Centre; the joint organization of an expert group meeting on children and juveniles in detention: application of human rights standards, held at Vienna from 30 October to 4 November 1994; and the subsequent publication of a document on the expert group meeting.** The Centre also contributed substantively and financially to the seminar on juvenile justice, juvenile delinquency, treatment of offenders and crime prevention policy for Portuguese-speaking countries in Africa, held at Sao Tome from 23 to 28 February 1995. The seminar was organized by the Branch.

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*In addition to the activities reported by UNDCP, a joint advisory mission was sent to Pakistan from 26 March to 9 April 1995, for the purpose of carrying out an in-depth analysis and needs assessment of the problem of organized crime in that country. Further joint activities are being planned with regard to a request for assistance in crime prevention and criminal justice from Angola, following a UNDCP field mission to that country.

**The expert group meeting, which was hosted by the Government of Austria, was organized by the Centre for Human Rights, the Branch and the United Nations Children's Fund (UNICEF). The results of the discussions were published by the Austrian Ministry for Youth and Family under the title *Children in Trouble: United Nations Expert Group Meeting* (Vienna, 1995). (For further information, see the report of the Secretary-General (E/CN.15/1995/7) on United Nations standards and norms in the field of crime prevention and criminal justice.)

3. Department of Peace-keeping Operations of the Secretariat

22. From November 1993 to March 1995 the Crime Prevention and Criminal Justice Branch contributed to the work of the civilian police component of the United Nations Protection Force (UNPROFOR) and to the United Nations Mission in Haiti. Follow-up projects relating to these missions are currently under preparation.

23. With regard to the civilian police component of UNPROFOR, the Branch, in cooperation with the International Centre for Criminal Law Reform and Criminal Justice Policy and the Austrian Ministry of the Interior, organized two training seminars for station commanders of the civilian police component in the region, which were held at Wiener Neustadt, Austria, from 28 to 30 January and from 4 to 6 November 1994. A basic skills manual for police monitors of the civilian police is being developed as a result of the recommendations of those seminars.

24. In cooperation with the Centre for Human Rights, the Crime Prevention and Criminal Justice Branch undertook a mission to Haiti in December 1994. A follow-up mission, composed of one Interregional Adviser for Crime Prevention and Criminal Justice and one prison expert, took place in January 1995. As a result, the Branch has initiated a project for the reconstruction of Haitian correctional services, in cooperation with the International Civilian Mission to Haiti and UNDP (see paragraph 34 below). As part of the project, a training seminar for the *commissaires du gouvernement* is also being organized by the Branch, together with the International Civilian Mission to Haiti and the French Ecole nationale de la magistrature.

25. *United Nations Criminal Justice Standards for Peace-keeping Police*, a handbook prepared by the Branch in cooperation with the International Centre for Criminal Law Reform and Criminal Justice Policy in response to needs expressed by the civilian police component of UNPROFOR, has also been in constant demand by Member States. Copies of the handbook, also known as "the blue book", and of the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169, annex) were delivered to the United Nations Mission in Haiti at the request of the Commissioner of the civilian police component of UNPROFOR. The handbook has recently been translated and printed in Arabic and French.* In addition, the Branch prepared an introductory training curriculum on crime prevention and criminal justice, which will form part of a training manual for United Nations staff on mission service in peace-keeping and peace-building operations. The manual is being developed by the Office of Human Resources Management of the Secretariat.

4. Office of the Special Coordinator in the Occupied Territories

26. As part of the United Nations integrated assistance programme for Palestinian civil police, coordinated by the Office of the Special Coordinator in the Occupied Territories, the Crime Prevention and Criminal Justice Branch organized two consecutive training seminars on police and criminal justice management. The seminars, which were funded by the Swedish International Development Authority, were held at Gaza from 27 November to 1 December and from 4 to 8 December 1994. Follow-up activities are being planned.

27. In addition, the Branch was represented at the Preparatory Inter-Agency Meeting, held at Gaza from 7 to 8 December 1994. Follow-up activities are being considered within the framework set up in the

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*Funding for the printing and translation of further copies in English, French and Spanish is being discussed with the Department of Peace-keeping Operations.

priority sectors of infrastructure and institution-building by the Office of the Special Coordinator in the Occupied Territories.

5. Regional commissions of the Economic and Social Council

28. All regional commissions of the Economic and Social Council assisted in the organization of the regional preparatory meetings for the Ninth Congress.*

29. The Economic and Social Commission for Asia and the Pacific continued to provide institutional support for the post of regional adviser in crime prevention and criminal justice.** Consultations were held with the regional adviser on possible areas of cooperation and coordination of activities.

6. United Nations Children's Fund

30. UNICEF cooperated in the organization of an expert group meeting on children and detention: application of human rights standards, held at Vienna from 30 October to 4 November 1994.*** The meeting focused on United Nations standards and norms relevant to the detention of juveniles. UNICEF also provided funding to enable a participant from Guinea-Bissau to attend a regional seminar on juvenile justice, treatment of offenders and crime prevention policies, held at Sao Tome in February 1995. The seminar was organized by the Crime Prevention and Criminal Justice Branch.

7. United Nations Development Programme

31. Finding ways of closer cooperation with UNDP has continued to be of great importance to the United Nations crime prevention and criminal justice programme. The Crime Prevention and Criminal Justice Branch has continued to receive the annual UNDP country reports on all countries. Both entities accord high priority to institution-building, one of the basic elements of social and economic development in a democratic society. This opens the way for a natural partnership to develop *vis-à-vis* cooperation in the implementation of technical assistance projects.

32. A continuous dialogue has been held with representatives of UNDP in the countries visited on mission and with UNDP resident representatives visiting the United Nations Office at Vienna. Given the limited funds earmarked for the implementation of the mandates on technical assistance of the United Nations crime prevention and criminal justice programme, the option to use the existing UNDP

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*See the report of the Asia and Pacific Regional Preparatory Meeting for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Bangkok from 17 to 21 January 1994 (A/CONF.169/RPM.1/Rev.1 and Corr.1); the report of the African Regional Preparatory Meeting for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Kampala from 14 to 18 February 1994 (A/CONF.169/RPM.2); the report of the European Regional Preparatory Meeting for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Vienna from 28 February to 4 March 1994 (A/CONF.169/RPM.3 and Corr.1); the report of the Latin American and Caribbean Regional Preparatory Meeting for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at San José from 7 to 11 March 1994 (A/CONF.169/RPM.4); and the report of the Western Asia Regional Preparatory Meeting for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Amman from 20 to 24 March 1994 (A/CONF.169/RPM.5).

**Funding for this post is provided by the Japanese International Cooperation Agency (see the report of the Secretary-General on United Nations standards and norms in the field of crime prevention and criminal justice (E/CN.15/1995/7)).

***For further information, see the report of the Secretary-General on United Nations standards and norms in the field of crime prevention and criminal justice (E/CN.15/1995/7).

infrastructure to further integrate crime prevention and criminal justice into existing development concepts and activities has great potential for future activities. In many instances, requests for technical assistance in crime prevention and criminal justice were channelled to the Crime Prevention and Criminal Justice Branch through the offices of the local UNDP resident representatives.

33. UNDP field offices in a number of countries have also provided assistance in the form of taking care of logistics arrangements. This has been the case, for example, with regard to the seminar for Portuguese-speaking countries in Africa, held at Sao Tome in February 1995, and the Workshop on the Training of Trainers of the Caribbean Custodial Corps, held at Christ Church, Barbados, from 9 to 13 April 1995. Both of those events were organized by the Crime Prevention and Criminal Justice Branch. In addition, assistance was provided to the interregional advisers for crime prevention and criminal justice on their preparatory missions to Barbados, Haiti and Peru. All UNDP resident representatives were requested to disseminate information to relevant ministries and institutions on the Leo Rosenthal fellowship in juvenile justice and on the technical cooperation fellowship in crime prevention and criminal justice, both of which are administered by the Branch.

34. After a first needs assessment mission to Haiti, undertaken jointly with the Centre for Human Rights in December 1994, a second mission was scheduled for January 1995 with the objective of developing a comprehensive project for the reconstruction of correctional facilities in cooperation with UNDP (the implementing agency) and the United States Agency for International Development (USAID). USAID has expressed an interest in funding a follow-up project through UNDP.

35. The Crime Prevention and Criminal Justice Branch participated in the First Meeting of the Multilateral Task Force on Democracy, Governance and Participation in Central and Eastern Europe and the Commonwealth of Independent States, organized by UNDP at Geneva from 16 to 18 January 1995. As a result of the meeting, consultations began on modalities for cooperation and coordination of activities within the framework of the UNDP programme for central and eastern Europe, and the Commonwealth of Independent States. The meeting was attended by representatives from 36 countries, the Centre for Human Rights, UNDCP, the United Nations Interregional Crime and Research Institute and other United Nations entities, as well as the European Institute for Crime Prevention and Control, affiliated with the United Nations, and a number of intergovernmental and non-governmental organizations.

8. International Law Commission

36. Examining the possibility of establishing an international criminal jurisdiction is a matter of common interest to the Crime Prevention and Criminal Justice Branch and to the International Law Commission. In its resolution 1993/34, section V, the Economic and Social Council recommended that the Secretary-General should consider resorting, where appropriate, to the expertise available in the Branch in matters related to the work of the International Law Commission on the preparation of a draft statute for the international criminal court and the draft Code of Crimes against the Peace and Security of Mankind.

37. The General Assembly, in its resolution 48/31, took note with appreciation of chapter II of the report of the International Law Commission on the work of its forty-fifth session,[2] which was devoted to the question of a draft statute for an international criminal court. In the same resolution, the Assembly invited States to submit to the Secretary-General by 15 February 1994 written comments on the draft articles proposed by the working group on a draft statute for an international criminal court.[3]

38. Following these initiatives, the International Law Commission, at its forty-sixth session, adopted the draft statute for an international criminal court. Consequently, the General Assembly, in its

resolution 49/53, decided to establish an ad hoc committee open to all States Members of the United Nations or members of specialized agencies to review the major substantive and administrative issues arising out of the draft statute and, in the light of that review, to consider arrangements for the convening of an international conference of plenipotentiaries. In addition, the Assembly invited States to submit to the Secretary-General, before 15 March 1995, written comments on the draft statute and requested the Secretary-General to invite such comments from relevant international organs. Accordingly, the Crime Prevention and Criminal Justice Branch was invited to submit comments concerning the draft statute, as well as to contribute to the work of the ad hoc committee. Comments were prepared jointly with UNDCP.

B. Cooperation with the United Nations Interregional Crime and Justice Research Institute and the institutes affiliated or associated with the United Nations crime prevention and criminal justice programme

39. The Crime Prevention and Criminal Justice Branch, the Interregional Crime and Research Institute and all institutes affiliated or associated with the United Nations crime prevention and criminal justice programme, which together constitute the United Nations crime prevention and criminal justice programme network, have continued to cooperate and coordinate their activities. Cooperation and coordination have been carried out in a number of ways, including through the Ninth Joint Programme Coordination Meeting of the United Nations Crime Prevention and Criminal Justice Programme Network, held at Riyadh from 24 to 25 January 1994, which was sponsored and hosted by the Arab Security Studies and Training Centre. It is expected that, once in place, the United Nations On-line Crime and Justice Clearing-house,* a computerized information and communication system, will contribute greatly to facilitating communication and even closer ties between the Branch and the network of institutes.

40. The Commission will have before it a report of the Secretary-General on activities of the United Nations Interregional Crime and Research Institute and other institutes, including the African Institute for the Prevention of Crime and the Treatment of Offenders (E/CN.15/1995/9), outlining, in accordance with Economic and Social Council resolution 1992/22, section IV, the programmes of work of the institutes and their implementation.

C. Cooperation with intergovernmental organizations

41. Contacts between the secretariat of the United Nations crime prevention and criminal justice programme and the community of intergovernmental organizations have been marked by growing participation on the part of the intergovernmental organizations. Consultations on matters of mutual interest, as well as on specific projects, have been held with a large number of organizations, including the European Commission, the Commonwealth Secretariat, the Council of Europe, the International Criminal Police Organization and the Financial Action Task Force established in 1989 by the heads of State or Government of the Group of Seven major industrialized countries and the President of the Commission of the European Communities.

42. In the area of organized transnational crime, the Crime Prevention and Criminal Justice Branch was invited to participate in activities organized by the Council of Europe, such as the first meeting of the Multidisciplinary Group on Corruption, held at Strasbourg from 22 to 24 February 1995. The practical measures against corruption developed by the Branch as a result of deliberations during the Eighth

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*See the report of the Secretary-General (E/CN.15/1995/6/Add.1) on proposals for improving the undertaking of clearing-house projects.

United Nations Congress on Crime Prevention and the Treatment of Offenders, held at Havana from 27 August to 7 September 1990, and published in 1993 by the Branch in the *International Review of Criminal Policy*,[4] was one of the basic documents taken into consideration by the Multidisciplinary Group. The Branch was also invited to hold discussions with the Financial Action Task Force on the coordination of activities. Furthermore, an invitation was extended to the Branch to take part in a symposium on corruption and good governance, held in Paris in March 1995. The symposium was organized by the Organization for Economic Cooperation and Development.

43. The United Nations Interregional Crime and Research Institute was one of the organizers of the Oxford Conference on Mutual Legal Assistance, held in September 1994. The Crime Prevention and Criminal Justice Branch presented its draft manuals on the implementation of the Model Treaty on Mutual Assistance in Criminal Matters and the Model Treaty on Extradition. The Branch and UNDCP also cooperated in identifying the experts eligible to receive financial support to attend the Oxford Conference.

D. Cooperation with non-governmental organizations and other entities

44. The network of contributors to the United Nations crime prevention and criminal justice programme includes non-governmental organizations in consultative status with the Economic and Social Council and a number of other institutions, such as universities, research institutes and professional organizations. The programme has benefited enormously from their input and contribution. It is anticipated that this closer cooperation and ongoing coordination of activities of common concern will yield additional benefits such as a more comprehensive view of the programme, augmented dissemination of the United Nations achievements in crime prevention and criminal justice, cost-efficiency and rationality in fulfilling the mandates of the programme.

45. Thirty-eight non-governmental organizations attended the third session of the Commission on Crime Prevention and Criminal Justice, an increase compared with the attendance of non-governmental organizations at the first and second sessions of the Commission. Nineteen ancillary meetings are scheduled to be organized by non-governmental organizations at the Ninth Congress, thereby continuing the tradition of previous congresses.

46. The Crime Prevention and Criminal Justice Branch has benefited, *inter alia*, from the support of the following non-governmental organizations and other professional institutions:* Amnesty International; Asia Crime Prevention Foundation; Caribbean Rights; Centro Nazionale di Prevenzione e Difesa Sociale; Defense for Children International Movement; Howard League for Penal Reform; Human Rights Watch; International Association of Juvenile and Family Court Magistrates; International Association of Penal Law; International Federation of Red Cross and Red Crescent Societies; International Penal and Penitentiary Foundation; International Scientific and Professional Advisory Council; International Society for Criminology; International Society of Social Defense; Minnesota Advocates for Human Rights; Penal Reform International; National Institute of Justice of the United States Department of Justice; Raoul Wallenberg Institute of Human Rights and Humanitarian Law; Save the Children Federation; UNESCO Institute of Education; State University of New York at Albany; and University of Illinois at Chicago.

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*The list is not exhaustive. Many other organizations have provided assistance to the programme since the previous report of the Secretary-General on the subject (E/CN.15/1994/9) was issued.

47. The strong commitment of non-governmental organizations to coordinating their activities with the mandates of the United Nations crime prevention and criminal justice programme is reflected in the growing number of joint seminars, training courses and conferences focusing on United Nations policies.

48. Joint projects have covered a variety of issues such as the improvement of international standards in the penal system, human rights in the administration of justice, refugee law, community service, juvenile justice in Portuguese-speaking countries in Africa. The Branch has made substantive contributions to conferences and symposia organized by non-governmental organizations on topics such as young offenders and juvenile justice; correctional staff: recruitment, training and retraining, criminal justice and the role of sentencing; and making standards work. In the area of organized transnational crime, the International Conference on Preventing and Controlling Money-Laundering and the Use of the Proceeds of Crime, held at Courmayeur in June 1994, was organized by the International Scientific and Professional Advisory Council. The recommendations of the conference were brought to the attention of the World Ministerial Conference on Organized Transnational Crime, held at Naples in November 1994 (E/CONF.88/7).

49. The development of joint publications, and manuals or handbooks for practitioners has been a productive area of cooperation. The Branch has been engaged in the development of publications on the training of law enforcement officers and corrections officials, a handbook of international standards relating to pre-trial detention, manuals on the implementation of the Model Treaty on Extradition and the Model Treaty on Mutual Assistance in Legal Matters and on basic education in prisons, and a manual on making standards work. Furthermore, the *Commentary on the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)*[5] was published in all official languages of the United Nations through the kind support of the Asia Crime Prevention Foundation and the International Penal and Penitentiary Foundation, as well as the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders.

50. Direct contributions have also been made by non-governmental organizations to projects organized by the Crime Prevention and Criminal Justice Branch. For example, the printing and shipping costs for the *Basic Training Manual for Correctional Workers*,* provided to all participants at the Workshop on the Training of Trainers of the Caribbean Custodial Corps, held at Christ Church in April 1995, was funded by the Alliance of Non-governmental Organizations in Crime Prevention and Criminal Justice in New York.

II. CONCLUSIONS

51. As a result of the restructuring of the United Nations crime prevention and criminal justice programme, pursuant to General Assembly resolution 46/152 and Economic and Social Council resolution 1992/22, there has been greater emphasis in the programme on providing Member States with practical technical assistance. This major shift towards making the programme more "operational" has made cooperation with other entities, both within and outside the United Nations, even more important than in previous years.

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*The *Manual* was developed by the International Scientific and Professional Advisory Council, with the support of the United Nations crime prevention and criminal justice programme. It is the result of a study of more than 100 training programmes from correctional institutions, training academies and educational institutions from all regions of the world.

A. Interregional advisers for crime prevention and criminal justice

52. The resource base of the programme has been strengthened. A second position of Interregional Adviser for Crime Prevention and Criminal Justice has been filled, and related resources for advisory services have increased. The programme, in its response to requests from Member States, will continue to rely strongly on the active support of other United Nations entities, as well as on contributions from intergovernmental and non-governmental organizations and other institutions. Cooperation with these organizations has been of great importance for the implementation of the technical assistance activities of the programme, as well as the dissemination of the United Nations standards and norms in crime prevention and criminal justice. All entities concerned are encouraged to continue offering their services and to continue their active cooperation with the programme.

B. Global approach

53. Combining experience and special expertise with that of other United Nations entities, non-governmental and other organizations has made it possible for complex issues to be tackled from a multidimensional perspective. The benefits of a global approach, as opposed to targeting specific sectors to the detriment of others, are the key to rendering effective technical assistance. All relevant organizations should continue to further integrate crime prevention and criminal justice issues in their programmes, in particular with respect to technical assistance. Implementation of technical cooperation projects was facilitated by the existing infrastructure of UNDCP and UNDP.

C. Inter-agency pre-project consultation

54. Information on technical assistance initiatives is often communicated only at the final stages of the decision-making process. By then, resources have already been allocated to other projects and the priorities of specific projects have already been determined. Consultations at an earlier stage, such as at inter-agency meetings or by electronic networking, could contribute to avoiding duplication. Coordinating policies and practical action requires proper means of communication, including the possibility of holding joint preparatory meetings and participating in the meetings of policy-making bodies. Involving a variety of organizations at the early stages of a project, however, also requires resources. The Commission may wish to explore further ways of consolidating the efforts already undertaken in improving the modalities of cooperation and coordination between United Nations entities and other institutions. This would facilitate inter-agency planning of joint missions and projects.

D. On-line clearing-house

55. The period between the third and the fourth session of the Commission has been marked by rapid development in electronic communication facilities. The Commission may wish to explore further ways of facilitating cooperation and coordination of activities through the proposed United Nations On-line Justice Clearing-house or through the use of other such facilities, for example, by setting up modalities for the regular exchange of information between the Branch and other entities, and other similar arrangements *. The proposed United Nations On-line Justice Clearing-house might also serve as a means to improve communications with and among the non-governmental organizations and other organizations interested in cooperating with the programme. It might also serve as a useful instrument

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*For further information on the clearing-house function, in particular on the proposed United Nations On-line Justice Clearing-house, as well as other modalities of cooperation related to the clearing-house function, see the report of the Secretary-General on proposals for improving the undertaking of clearing-house projects (E/CN.15/1995/6/Add.1).

in narrowing the information gap regarding criminal justice matters between developed and developing countries, in particular in the least developed countries.

E. Special coordinator

56. The programme has benefited greatly from the continuous growth in contributions from non-governmental organizations. The potential of better coordination with the activities of these organizations has not been fully explored. There is a need to develop more efficient procedures for active information exchange in this area. The Commission may wish to consider the assignment of a special coordinator within the programme for questions related to contributions by non-governmental organizations and other professional organizations. Monitoring the success of technical assistance projects could be an additional responsibility of the coordinator.

Notes

[1] *Official Records of the United Nations Conference for the Adoption of a Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 25 November-20 December 1988*, vol. I (United Nations publication, Sales No. E.94.XI.5).

[2] *Official Records of the General Assembly, Forty-eighth Session, Supplement No. 10* (A/48/10).

[3] Ibid., annex.

[4] *International Review of Criminal Policy*, Nos. 41 and 42, 1993 (United Nations Publication, Sales No. E.93.IV.4).

[5] ST/CSDHA/22.